

INFORMATION TO OFFERORS OR QUOTERS SECTION A - COVER SHEET		1. SOLICITATION NUMBER SP0600-00-R-0036	2. (X one) <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50px;"></td> <td>a. SEALED BID</td> </tr> <tr> <td style="text-align: center;">X</td> <td>b. NEGOTIATED (RFP)</td> </tr> <tr> <td></td> <td>c. NEGOTIATED (RFQ)</td> </tr> </table>		a. SEALED BID	X	b. NEGOTIATED (RFP)		c. NEGOTIATED (RFQ)
	a. SEALED BID								
X	b. NEGOTIATED (RFP)								
	c. NEGOTIATED (RFQ)								

INSTRUCTIONS

NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION.

You are cautioned to note the "Certification of Non-Segregated Facilities" in the solicitation. Failure to agree to the certification will render your reply non responsive to the terms of solicitations involving awards of contracts exceeding \$25,000 which are not exempt from the provisions of the Equal Opportunity clause.

"Fill-ins" are provided on the face and reverse of Standard Form 18 and Parts I and IV of Standard Form 33, or other solicitation documents and Sections of Table of Contents in this solicitation and should be examined for applicability.

See the provision of this solicitation entitled either "Late Bids, Modifications of Bids or Withdrawal of Bids" or "Late Proposals, Modifications of Proposals and Withdrawals of Proposals." NOTE: The new title of this clause is "LATE SUBMISSIONS, MODIFICATIONS AND WITHDRAWALS OF PROPOSALS."

When submitting your reply, the envelope used must be plainly marked with the Solicitation Number, as shown above and the date and local time set forth for bid opening or receipt of proposals in the solicitation document.

If NO RESPONSE is to be submitted, detach this sheet from the solicitation, complete the information requested on reverse, fold, affix postage, and mail. NO ENVELOPE IS NECESSARY.

Replies must be set forth full, accurate, and complete information as required by this solicitation (including attachments). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

3. ISSUING OFFICE (Complete mailing address, including Zip Code)

Defense Energy Support Center	PPN	: 6.1
8725 John J. Kingman Rd., STE 2941		
Fort Belvoir, VA 22060-6222		
Buyer/Symbol: Tracy/DESC-FPC	FAX	: 703-767-8506
	TELEPHONE	: 703-767-9351

4. ITEMS TO BE PURCHASED (Brief description) To conduct Long Term Monitoring in accordance with the Long Term Monitoring Plan (LTMP) at DFSP Casco Bay, Maine. Performance Period: 12 July 2000 through 11 July 2005.

5. PROCUREMENT INFORMATION (X and complete as applicable)

X	a. THIS PROCUREMENT IS UNRESTRICTED
	b. THIS PROCUREMENT IS A _____% SET-ASIDE FOR ONE OF THE FOLLOWING (X One). (See Section I of the Table of Contents in this solicitation for details of the set-aside.)
<input type="checkbox"/>	(1) Small Business
<input type="checkbox"/>	(2) Labor Surplus Area Concerns
<input type="checkbox"/>	(3) Combined Small Business/Labor Area Concerns

A. Telegraphic, TWX and Facsimile Proposals are not authorized. The technical proposal must be included with the initial offer or the offer will not be considered. Clause B35 shall be submitted on the 3.5 computer disk provided at the pre-proposal conference and printed in hard copy (in EXCEL format). A hard copy of Clause B35 must accompany all offers.

B. Refer to Clause B35 Services To Be Furnished and Prices for information regarding the technical specifications and requirement.

C. Award of this contract shall be made using source selection procedures. Offerors should note M2.03-1 Socio-economic Evaluation, M28.04.100 Basis For Award and M72 Evaluation of Offers.

D. Refer to Clauses L54.01, L70 and L198 for information concerning site visit and pre-proposal conference.

(Continued Page 3)

7. POINT OF CONTACT FOR INFORMATION

a. NAME (Last, First, Middle Initial) Tracy	b. ADDRESS (Including Zip Code) Defense Energy Support Center 8725 John J. Kingman Rd., STE 2941 Ft. Belvoir, VA 22060-6222
c. TELEPHONE NUMBER (Including Area Code and Extension) (NO COLLECT CALLS) (703) 767-9351	

8. REASONS FOR NO RESPONSE (<i>X all that apply</i>)					
<input type="checkbox"/>	a. CANNOT COMPLY WITH SPECIFICATIONS		<input type="checkbox"/>	b. CANNOT MEET DELIVERY REQUIREMENTS	
<input type="checkbox"/>	c. UNABLE TO IDENTIFY THE ITEM(S)		<input type="checkbox"/>	d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED	
e. OTHER (<i>Specify</i>)					
9. MAILING LIST INFORMATION (<i>X one</i>)					
<input type="checkbox"/>	YES	<input type="checkbox"/>	N O	WE DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEM(S) INVOLVED.	
10. RESPONDING FIRM					
a. COMPANY NAME			b. ADDRESS (<i>Including Zip Code</i>)		
c. ACTION OFFICER					
(1) Typed or Printed Name (<i>Last, First, Middle Initial</i>)		(2) Title		(3) Signature	
				(4) Date Signed (YYMMDD)	

DD Form 1707 Reverse, MAR 90

FOLD

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FROM

FOLD

AFFIX
STAMP
HERE

SOLICITATION NUMBER	
SP0600-00-R-0036	
DATE (YYMMDD)	LOCAL TIME
00/04/06	3:00 PM

TO **Attn: Bid Custodian, DESC-CPC, Room 3729
Defense Energy Support Center
8725 John J. Kingman Road
Fort Belvoir, Virginia 22060-6222**

E. Notice: Any contract awarded to a Contractor who, at the time of award was suspended, debarred, or ineligible for receipt of contract with Government Agencies or in receipt of a notice of proposed debarment from any Government Agency, is voidable at the option of the Government.

F. In case of emergency during non-duty hours, contact the Emergency Operation Center (ESOC), telephone (703) 767-8420.

G. Questions regarding Small Business matters may be directed to Mrs. Kathy Williams, Defense Energy Support Center Small Business Office (703) 767-9465.

SOLICITATION, OFFER AND AWARD				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING		PAGE OF PAGES 1 91		
2. CONTRACT NO.		3. SOLICITATION NO. SP0600-00-R-0036		4. TYPE OF SOLICITATION [] SEALED BID (IFB) [x] NEGOTIATED (RFP)		5. DATE ISSUED March 10, 2000		6. REQUISITION/PURCHASE NO. SPO600-00-0000/CASCO BAY, ME		
7. ISSUED BY Defense Energy Support Center 8725 John J Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 PP: 6.1 Buyer/Symbol: TRACY/DESC-FPA Phone: 703-767-9351 Fax: 703-767-8506/ttracy@desc.dla.mil				CODE SCO600		8. ADDRESS OFFER TO (If other than item 7) ATTN: BID CUSTODIAN, DESC-PCC, RM. 3729 Defense Energy Support Center 8725 John J Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 Fax: 703-767-8506 Verification: 703-767-8758				
NOTE: In sealed bid solicitation "offer" and "offeror" mean "bid" and "bidder".										
SOLICITATION										
9. Sealed offers in original and 1 (one) copies for furnishing the supplies or services in the Schedule will be received at the place specified, in the depository located in DESC-PCC; Room 3729 until 3:00 PM local time April 06, 2000 . (hour) (date) CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L. Provision No. 52.215-10. All offers are subject to all terms and conditions contained in this solicitation. See Clause L2.05-8										
10. FOR INFORMATION CALL:			A. NAME TRACY			B. TELEPHONE NO. (Include Area Code) (NO COLLECT CALLS) 703-767-9351				
11. TABLE OF CONTENTS										
(x)	SEC.	DESCRIPTION			PAGE	(x)	SEC.	DESCRIPTION		
PART I - THE SCHEDULE					PART II - CONTRACT CLAUSES					
X	A	SOLICITATION/CONTRACT FORM SEE COVER SHEET			1	X	I	CONTRACT CLAUSES		
X	B	SUPPLIES OR SERVICE AND PRICES/COSTS			6-8	PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACH.				
X	C	DESCRIPTION/SPECS/WORK STATEMENT			8	X	J	LIST OF ATTACHMENTS		
	D	PACKAGING AND MARKETING				PART IV - REPRESENTATIONS AND INSTRUCTIONS				
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X	H	SPECIAL CONTRACT REQUIREMENTS			15-17	X	M	EVALUATION FACTORS FOR AWARD		
OFFER (Must be fully completed by offeror)										
NOTE: ITEM 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.										
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____* calendar days (60 calendar days unless a different period is inserted by the offer) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. * See Clause L1.02										
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause I4)			10 CALENDAR DAYS %		20 CALENDAR DAYS %		30 CALENDAR DAYS %		CALENDAR DAYS %	
14. ACKNOWLEDGMENT OF AMENDMENTS The offeror acknowledges receipt of amendments to the solicitation for offerors and related documents Numbered and dated:			AMENDMENT NO.		DATE		AMENDMENT NO.		DATE	
15A. NAME OF OFFEROR (Type or print)		ADDRESS OF OFFEROR (Type or print)		CODE		FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)		
15B. TELEPHONE NO. (Include area code)		15C. CHECK IF REMITTANCE ADDRESS [] Is different from above - enter such address				17. SIGNATURE		18. OFFER DATE		
AWARD (To be completed by Government)										
19. ACCEPTED AS TO ITEM NUMBERED			20. AMOUNT			21. ACCOUNTING AND APPROPRIATION NUMBERED				
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: [] 10 U.S.C. 2304(c)() [] 41 U.S.C. 253(c)()					23. SUBMIT INVOICES TO ADDRESS SHOWN IN IN BLOCK 25 (4 copies unless otherwise specified)			ITEM		
24. ADMINISTRATION BY (If other than Item 7)					CODE			25. PAYMENT WILL BE MADE BY		
								CODE		
26. NAME OF CONTRACTING OFFICER (Type of print)					27. UNITED STATES OF AMERICA BY: _____ (Signature of person authorized to sign)			28. AWARD DATE		

IMPORTANT - Award will be made on this form, or on the Standard Form 26, or by other authorized official written notice.

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WAGE DETERMINATION No. 94-2241 (REV. 17) DATED AUGUST 17, 1999
 OFFEROR SUBMISSION PACKAGE

ATTACHMENT 1
 ATTACHMENT 2

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SECTION B – SUPPLIES/SERVICES AND PRICES/COST

B35 SERVICES TO BE FURNISHED AND PRICES (ENVIRONMENTAL) (DESC FEB 1992)

The services to be furnished during the period specified herein and the unit prices are as follows:

<u>CLIN</u>	<u>Services</u>	<u>Amount</u>
0001A	Work Plan Unit	\$ _____
0001B	Work Plan Excess Hours	\$ _____
0002A	Boring up to 5 feet	\$ _____
0002B	Feet of Boring 6 to 20 feet	\$ _____
0002C	Soil Borings Mobilization	\$ _____
0003A	Price Per Unit of DPT	\$ _____
0003B	Mobilization for DPT	\$ _____
0004A	2" Monitoring Well up to 10 feet	\$ _____
0004B	2" Monitoring Well 11 to 20 feet	\$ _____
0004C	4" Monitoring Well up to 10 feet	\$ _____
0004D	4" Monitoring Well 11 to 20 feet	\$ _____
0004AE	Monitoring Wells Mobilization	\$ _____
0005A	Ocean Sediment Samples	\$ _____
0005B	Beach Sediment Samples	\$ _____
0005C	Shellfish Samples	\$ _____
0005D	Shellfish Sampling Mobilization	\$ _____
0006A	Total Fuel Oil (MEDEP 4.1.25)	\$ _____
0006B	8015	\$ _____
0006C	8021B	\$ _____
0006D	8260	\$ _____
0006E	8260 (Modified)	\$ _____
0006F	8270 (SW-846PAH)	\$ _____
0006G	TCLP Metals	\$ _____
0006H	9045	\$ _____
0006I	1010/1020	\$ _____
0006J	Bioassay (Toxicity)	\$ _____
0006K	Major Anions and Cations	\$ _____
0006L	Nitrate (Bioindicator)	\$ _____
0006M	Sulfate (Bioindicator)	\$ _____
0006N	Dissolved Iron (Bioindicator)	\$ _____
0006O	Dissolved Manganese (Bioindicator)	\$ _____
0006P	Filters for Dissolved Metals	\$ _____
0006Q	Methane (Bioindicator)	\$ _____
0006R	pH, Temp and Conductivity Meter	\$ _____
0006S	Chloride (Bioindicator Tracer)	\$ _____
0006T	In-Line Flow Meter Cells	\$ _____
0006U	Peristaltic Pumps	\$ _____
0006V	Phenolic Compounds (Chlorinated)	\$ _____
0006W	Oil & Grease	\$ _____
0006X	Soil Properties Testing API RP40	\$ _____
0006Y	Grain Size ASTM D4464	\$ _____

0006Z	Hydraulic Conductivity ASTM 2434/5084	\$
0007	Well Location Surveying Units	\$
0008	Pump Tests	\$
0009A	Risk Analysis	\$
0009B	Excess Hours for Risk Analysis	\$
0010A	Reports	\$
0010B	Excess Hours for Report Preparation	\$
0011A	Project Manager (Price Per Hour)	\$
0011B	Engineer I (Price Per Hour)	\$
0011C	Engineer II (Price Per Hour)	\$
0011D	Engineer III (Price Per Hour)	\$
0011E	Chemist (Price Per Hour)	\$
0011F	Environmental Scientist I (Price Per Hour)	\$
0011G	Environmental Scientist II (Price Per Hour)	\$
0011H	Environmental Scientist III (Price Per Hour)	\$
0011I	Geologist I (Price Per Hour)	\$
0011J	Geologist II (Price Per Hour)	\$
0011K	Geologist III (Price Per Hour)	\$
0011L	Hydrogeologist I (Price Per Hour)	\$
0011M	Hydrogeologist II (Price Per Hour)	\$
0011N	Hydrogeologist III (Price Per Hour)	\$
0011O	Toxicologist I (Price Per Hour)	\$
0011P	Toxicologist II (Price Per Hour)	\$
0011Q	Toxicologist III (Price Per Hour)	\$
0011R	Drafter (Price Per Hour)	\$
0011S	Cost Accountant (Price Per Hour)	\$
0011T	Secretary (Price Per Hour)	\$
0011U	Site Labor Foreman (Price Per Hour)	\$
0011V	Heavy Equipment Operator (Price Per Hour)	\$
0011X	Laborer (Price Per Hour)	\$
0011Y	Engineering Technician (Price Per Hour)	\$
0011Z	Equipment Operator (Price Per Hour)	\$
0011AA	Utility Truck (Price Per Day)	\$
0011AB	02/Explosimeter (Price Per Day)	\$
0011AC	Sampling Pump (Price Per Day)	\$
0011AD	Flame Ionization OVA (Price Per Day)	\$
0011AE	Air Velocity Meter (Price Per Day)	\$
0011AF	Shipping of Soil & Water Samples for Analytical Testing (Price Per Day)	\$
0011AG	251b Shipping Container	\$
0011AH	Disposable Bailers	\$
0011AI	Tedlar Bags (Price Per Dozen)	\$
0011AJ	Pick-up Truck ½ Ton (Price Per Day)	\$
0011AK	1 CY Backhoe Loader (Price Per Day)	\$
0011AL	1 ½ CY Hydraulic Excavation (Price Per Day)	\$
0011AM	Drill Rig (Price Per Day)	\$
0011AN	Dewatering Pump (150 GPM) (Price Per Day)	\$
0011AO	Air Compressor (7cfm) (Price Per Day)	\$
0011AP	Generator (4000 watt) (Price Per Day)	\$
0011AQ	CAD Equipment Use Charge (Price Per Day)	\$
0011AR	Photoionization Detector (Price Per Day)	\$

0011AS	Oil/Water Interface Probe (Price Per Day)	\$ _____
0012	Mark-up for Overhead and Profit (Proposed percentage in Clause B35 will be multiplied by the estimate of cost reimbursable items identified in Clause M28.04.100)	_____ %
0013	Lump Sum Payment for Background Review	\$ _____
		(DESC 52.207-9F95)

SECTION C – DESCRIPTION/SPECIFICATIONS

STATEMENT OF WORK FOR ENVIRONMENTAL LONG TERM MONITORING SERVICES AT DEFENSE FUEL SUPPORT POINT CASCO BAY, MAINE.

BACKGROUND: The Defense Energy Support Center (DESC) administered military fuel storage and transportation facilities known as Defense Fuel Support Point (DFSP) Casco Bay, Maine, which is no longer an active facility and has been remediated to levels acceptable for recreational use.

SCOPE: The environmental service contractor shall conduct Long Term Monitoring in accordance with the Long Term Monitoring Plan (LTMP). In addition, the environmental services contractor shall be capable of conducting environmental assessments and re-mediations. Based on previous experience, DESC has compiled a list of personnel and services that might be needed. The three known major categories of work to be performed under this contract are:

- a. Water Level Measurements;
- b. Groundwater quality monitoring of DFSP Casco Bay and nearby residential wells; and,
- c. Preparation of data reports.

SPECIAL NOTES:

- a. The contractor shall limit operations from 7:00 AM to 4:00 PM, Monday through Friday except Federal holidays. The contractor under special circumstances may be required to work at night along any of the off site pipelines (e.g. to minimize the adverse impact to traffic on public roads).
- b. All Non-usable surplus material and debris resulting from work under this contract shall be removed from the site and properly disposed of by the Contractor. All waste must be disposed of by the Contractor, off Government property, except for non-hazardous soil cuttings from boring and monitoring well construction and non-hazardous groundwater from monitoring well development, which may be spread on-site adjacent to the location at which they were generated.
- c. The Contractor may be tasked to properly dispose of hazardous soil cutting and/or water generated as a result of work under this contract. Disposal shall include packaging, labeling, temporary storage, and transportation in accordance with all applicable federal, state, and local statutes and regulations. Manifests for transportation and disposal of the waste shall be prepared by the Contractor and a copy shall be provided to the Contracting Officer. Reimbursement for the disposal of hazardous waste will be negotiated and authorized under CLIN 1015.

SECTION E – INSPECTION AND ACCEPTANCE

E5.03 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)

- (a) **DEFINITION. Services**, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.
(FAR 52.246-4)

E50 RESPONSIBILITY FOR SUPPLIES (APR 1984)

- (a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.
- (b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon--
- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
 - (2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.
- (c) Paragraph (b) above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.
- (d) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.
(FAR 52.246-16)

E600 INSPECTION - TIME-AND-MATERIAL AND LABOR-HOUR CONTRACTS (JAN 1986)

- (a) **DEFINITIONS.**
- (1) **Contractor's managerial personnel**, as used in this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--
 - (i) All or substantially all of the Contractor's business;
 - (ii) All or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed; or
 - (iii) A separate and complete major industrial operation connected with the performance of this contract.
 - (2) **Materials**, as used in this clause, includes data when the contract does not include the WARRANT OF DATA clause.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, work, and services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government shall accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(f) After acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (h) below, the cost of replacement or correction shall be determined under the PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(g) (1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may--

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(ii) Terminate this contract for default.

(2) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to (1) fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel or (2) the conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(j) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(k) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property. (FAR 52.246-6)

SECTION F – DELIVERIES OR PERFORMANCE

F108 DELIVERY OF EXCESS QUANTITIES (SEP 1989)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to \$250 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price. (FAR 52.211-17)

SECTION G – CONTRACT ADMINISTRATION DATA

G1 POSTAWARD CONFERENCE (DEC 1991)

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation Subpart 42.5. (DFARS 252.242-7000)

G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected. (DESC 52.211-9FH5)

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday. (DESC 52.232-9F45)

G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE (DESC NOV 1999)

(a) The Contractor shall supply the following information to the Contracting Officer no later than 5 days after contract award and before submission of the first request for payment.

NAME OF RECEIVING BANK: _____
(DO NOT EXCEED 29 CHARACTERS)

CITY AND STATE OF RECEIVING BANK: _____
(DO NOT EXCEED 20 CHARACTERS)

AMERICAN BANKERS ASSOCIATION NINE DIGIT IDENTIFIER OF RECEIVING BANK: _____

ACCOUNT TYPE CODE: (Contractor to designate one)

☐ CHECKING TYPE 22

☐ SAVINGS TYPE 32

RECIPIENT'S ACCOUNT NUMBER ENCLOSED IN PARENTHESES: _____
(DO NOT EXCEED 15 CHARACTERS)

RECIPIENT'S NAME: _____
(DO NOT EXCEED 25 CHARACTERS)

STREET ADDRESS: _____
(DO NOT EXCEED 25 CHARACTERS)

CITY AND STATE: _____
(DO NOT EXCEED 25 CHARACTERS)

NOTE: Additional information may be entered in **EITHER** paragraph (c) **OR** paragraph (d) below. Total space available for information entered in (c) **OR** (d) is 153 characters.

(b) **SPECIAL INSTRUCTIONS/OTHER IDENTIFYING DATA:**

OR

Four horizontal number lines are provided for graphing. Each line has 20 equally spaced tick marks, but no numerical labels are present.

13

(3) The Third Party Information supplied in (d) above will be located in the first RMT segment of the CTX payment information sent to the receiving bank.

(i) Notwithstanding any other provision of the contract, the requirements of this clause shall control.

(DESC 52.232-9FJ1)

G9.09 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) METHOD OF PAYMENT.

(1) All payments by the Government under this contract, shall be made electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) **CONTRACTOR'S EFT INFORMATION.** The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) **MECHANISMS FOR EFT PAYMENT.** The Government shall make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) **SUSPENSION OF PAYMENT.** If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) **CONTRACTOR EFT ARRANGEMENTS.** The Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) of this clause shall apply.

(g) **EFT AND PROMPT PAYMENT.** A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) **EFT AND ASSIGNMENT OF CLAIMS.** If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require a condition of any such assignment that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect within the meaning of paragraph (d) of this clause.

(i) **LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes in EFT information made by the Contractor's financial agent.

(j) **PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database. (FAR 52.232-33)

G17.01 CONTRACTOR'S ACCOUNTING SYSTEM (DESC FEB 1992)

The Contractor shall employ and disclose, in writing, its cost accounting system and practices for this contract which shall identify and record site specific costs on a site specific basis and by contract task order. Site specific cost documentation for each contract task order must be readily retrievable and sufficiently identifiable to enable cross-referencing with payment vouchers. The foregoing is in addition to and/or complementary to other COST ACCOUNTING STANDARDS clauses contained in this contract. The Contractor shall submit the accounting system and practices with the initial offer to the Contracting Officer for approval. (DESC 52.230-9F05)

G50.01 CONTRACTOR'S PURCHASING SYSTEM (DESC FEB 1992)

(a) The Contractor's purchasing system shall ensure that prices paid for materials, equipment, and services are fair and reasonable. The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract. As a general purchasing practice, use of any broker, retailer, or other intermediary (which usually causes a price increase in the item being purchased) should be avoided.

(b) The Contractor shall procure materials and services at the most advantageous prices with due regard for prompt delivery of satisfactory services and materials and shall take discounts, rebates, allowances, credits, and other benefits. The Contractor also shall take actions necessary to obtain applicable tax exemptions, reductions, and refunds. Reimbursement costs shall be the net costs after taking discounts, rebates, allowances, credits, and other benefits.

(c) The Contractor shall prepare a Standard Operating Procedure (SOP) on the Contractor's purchasing policies and procedures to include, but not be limited to, maintenance of purchasing records, policies and procedures on emergency purchases, subcontracts, terminations, source selection, and contract administration. The Contractor shall submit the SOP to the Contracting Officer for review and consent. After consent, the Contractor shall adhere to those procedures, unless further reviews of such procedures and policies by the Contracting Officer during the life of the contract reveal deficiencies in the Contractor's purchasing system. Such deficiencies include, but are not limited to, a Contracting Officer's determination that the Contractor's purchasing system does not provide sufficient protection of expenditure of Government funds, and is, therefore, unacceptable. The Contracting Officer shall notify the Contractor, in writing, within 14 calendar days of the Contracting Officer's determination of deficiencies in the Contractor's purchasing system. The Contractor shall revise its purchasing system so that it is acceptable to the Contracting Officer. The Contracting Officer will review the Contractor's purchasing methods when determined necessary by the Contracting Officer during the life of the contract.

NOTE: THE SOP SHALL BE SUBMITTED TO THE CONTRACTING OFFICER WITH THE INITIAL OFFER.

(DESC 52.232-9Fq5)

G148.06 SUBMISSION OF INVOICES FOR PAYMENT (ENVIRONMENTAL) (DESC OCT 1995)

(a) Separate invoices must be submitted for each task order issued under this contract. Invoices shall be certified as shown below and submitted to the cognizant DESC Quality Representative or DESC On-Scene Coordinator for certification that supplies or services included on the invoice have been provided.

Each invoice will be certified by an official of the company in the following manner:

"I certify that the services were performed/supplies were received, the amounts reflected hereon are in conformance with the contract, and that the amounts are correct and proper for payment."

(Signature)

(Printed Name and Title)

(b) **TIME-AND-MATERIALS LINE ITEM(S)**. Invoices shall reference appropriate line item and charge as specified in the contract. General and administrative costs and profit should have been included in the offered rate and therefore are not allowable additional charges.

(c) **COST REIMBURSEMENT LINE ITEM(S)**. Invoices shall reference appropriate line item and cost as actually incurred by the Contractor. General and administrative costs and profit for the cost reimbursement line item(s) should have been included in the time-and-materials prices and are not allowable additional charges unless the Government exceeds cost estimate established for the cost reimbursement line item(s).

(d) Invoices shall be submitted with an original and three copies with supporting documentation (e.g., subcontractor bills or invoices) to--

CONUS Contract Locations

ATTN DESC-FPA/FPB
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 2941
FORT BELVOIR VA 22060-6222

OCONUS Contract Locations

ATTN DESC-FPC
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 2941
FORT BELVOIR VA 22060-6222

(DESC 52.232-9FE5)

G148.06-1 REIMBURSEMENT FOR TRAVEL (DESC FEB 1992)

(a) Performance under this contract may require travel by Contractor personnel. If travel is required, the Contractor is responsible for making all needed arrangements for their personnel.

(b) The Contractor will be reimbursed for allowable travel costs incurred by the Contractor in performance of the contract and determined to be in accordance with FAR 31.205-46, Travel Costs, subject to the following provisions:

(1) Travel, subsistence, and associated labor charges for travel time are authorized for travel beyond a 50-mile radius of the local office(s) designated by the Contractor whenever a contract task order requires work to be accomplished at a temporary alternate work site. No subsistence for travel time shall be charged for work performed within a 50-mile radius of the Contractor's local office. Travel performed for personal convenience and daily travel to and from work at Contractor's facility will not be reimbursed.

(2) Per diem for travel on work under this contract will be reimbursed to employees consistent with company policy, but not to exceed the amount authorized in the DoD Joint Travel Regulations.

(3) To the maximum extent practicable without the impairment of the effectiveness of the mission, transportation shall be tourist class. In the event that only first class travel is available, it will be allowable provided justification is fully documented.

(4) Travel by privately owned conveyance is encouraged when advantageous to the Government. Reimbursement for mileage will be at rates allowed by DoD Joint Travel Regulations.

(DESC 52.232-9FK5)

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H9 KEY PERSONNEL (DESC AUG 1991)

(a) The Contractor shall assign to this contract the following key personnel:

(Insert employee's name and title/position.)

(b) During the first 120 calendar days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by (c) below. After the initial 120 calendar day period, the Contractor shall submit the information required by (c) below to the Contracting Officer at least 30 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 30 calendar days after receipt of all required information of the decision on substitutions.

(DESC 52.216-9F80)

H9.02 AUTHORITY TO TAKE DIRECTION (DESC FEB 1992)

The Contractor agrees to make whatever arrangements are necessary to ensure that there is someone on-scene at all times with the authority to take technical direction from the Government and to manage the activities being performed. If work is being performed solely by subcontractor personnel and there is no on-scene presence of a prime Contractor representative, the Contractor agrees to provide such subcontractor personnel with the authority to take direction and to make decisions on behalf of the prime Contractor.

(DESC 52.242-9F30)

H20 REPORTS OF GOVERNMENT PROPERTY (MAY 1994)

(a) The Contractor shall provide an annual report--

(1) For all DoD property for which the Contractor is accountable under the contract;

(2) Prepared in accordance with the requirements of DD Form 1662, DoD Property in the Custody of Contractors, or approved substitute, including instructions on the reverse side of the form; and

(3) In duplicate, to the cognizant Government property administrator, no later than October 31.

(b) The Contractor is responsible for reporting all Government property accountable to this contract, including that at subcontractor and alternate locations.

(DFARS 252.245-7001)

H20.03 REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (MAR 1998)

(a) **REPORTING CRITERIA.** Reporting under this clause is required for--

(1) Offers exceeding \$10 million, if the offeror is aware at the time the offer is submitted that it or its first-tier subcontractor intends to perform any part of the contract that exceeds \$500,000 outside the United States and Canada, if that part could be performed inside the United States or Canada;

(2) Contracts exceeding \$10 million, when any part that exceeds \$500,000 could be performed inside the United States or Canada, but will be performed outside the United States and Canada. If the information was submitted with the offer, it need not be resubmitted unless it changes; and

(3) Contracts exceeding \$500,000, when any part that exceeds the simplified acquisition threshold in Part 2 of the FAR will be performed outside the United States, unless a foreign place of performance is--

(i) The principal place of performance; and

(ii) Indicated by the offeror's entry in the PLACE OF PERFORMANCE provision of the solicitation.

(b) **SUBMISSION OF REPORTS.**

(1) The offeror shall submit reports required by paragraph (a)(1) of this clause with its offer.

(2) The Contractor shall submit reports required by paragraph (a)(2) of this clause to the Contracting Officer as soon as the information is known, with a copy to the addressee in paragraph (b)(3) of this clause. With respect to performance by a first-tier subcontractor, this information shall be reported, to the maximum extent practicable, at least 30 days before award of the subcontract.

(3) The Contractor shall submit reports required by paragraph (a)(3) of this clause within 10 days of the end of each Government quarter to--

Deputy Director of Defense Procurement (Foreign Contracting)
 OUSD(A&T)DP(FC)
 Washington, DC 20301-3060

(4) The Offeror/Contractor shall submit reports on DD Form 2139, Report of Contract Performance Outside the United States. Computer-generated reports are acceptable, provided the report contains all information required by DD Form 2139. Copies of DD Form 2139 may be obtained from the Contracting Officer.

(c) **FLOWDOWN REQUIREMENTS.**

(1) The Contractor shall include a clause substantially the same as this one in all first-tier subcontracts exceeding \$500,000, except subcontracts for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

(2) The Contractor shall provide the prime contract number to subcontractors for reporting purposes.

(d) **INFORMATION REQUIRED.** Information to be reported on the part of this contract performed outside the United States (or outside the United States and Canada for reports required by subparagraphs (a)(1) and (a)(2) of this clause) includes that for--

- (1) Subcontracts;
- (2) Purchases; and
- (3) Intracompany transfers when transfers originate in a foreign location.

(DFARS 252.225-7026)

H51.03 INSURANCE REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS (DESC AUG 1998)

(a) The General Liability Worker's Compensation and Automobile Liability Insurance to be procured and maintained by the Contractor and any subcontractors pursuant to the provisions of the INSURANCE - WORK ON A GOVERNMENT INSTALLATION clause shall provide at least the following minimum coverage:

GENERAL LIABILITY INSURANCE.

Bodily Injury.....	AT LEAST \$ 100,000 per person
	AT LEAST \$1,000,000 per accident
Property Damage.....	AT LEAST \$1,000,000 per accident
Worker's Compensation.....	AT LEAST \$100,000 except in states
	with exclusive monopolistic funds which do not permit the writing of workmen's compensation by
	private carriers (Nevada, North Dakota, Ohio, Oregon, Washington, West Virginia, and Wyoming).
	(Longshore and Harbor Workers' Compensation must also be provided when applicable.)

AUTOMOBILE LIABILITY INSURANCE.

Bodily Injury.....	AT LEAST \$200,000 per person
	AT LEAST \$500,000 per accident
Property Damage.....	AT LEAST \$ 20,000 per accident

(b) Prior to the commencement of work hereunder, at the request of the Contracting Officer, the Contractor shall submit the required certificates of insurance to the Contracting Officer.

(DESC 52.228-9F05)

SECTION I – CONTRACT CLAUSES

II DEFINITIONS (OCT 1995)

As used throughout this contract, the following terms shall have the meaning set forth below.

(a) **Head of the agency** (also called **agency head**) or **Secretary** means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency; and the term **authorized representative** means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(b) **Commercial component** means any component that is a commercial item.

(c) **Commercial item** means--

(1) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that--

(i) Has been sold, leased, or licensed to the general public; or

- (ii) Has been offered for sale, lease, or license to the general public;
- (2) Any item that evolved from an item described in subparagraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirement under a Government solicitation;
- (3) Any item that would satisfy a criterion expressed in subparagraph (c)(1) or (c)(2) of this clause, but for--
 - (i) Modifications of a type customarily available in the commercial marketplace; or
 - (ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. **Minor** modifications means modifications that do not significantly alter the non-governmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;
- (4) Any combination of items meeting the requirements of subparagraph (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;
- (5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (c)(1), (2), (3), or (4) of this clause, and if the source of such services--
 - (i) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and
 - (ii) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;
- (6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed;
- (7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or
- (8) A non-developmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.
- (d) **Component** means any item supplied to the Federal Government as part of an end item or of another component.
- (e) **Non-developmental item** means--
 - (1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;
 - (2) Any item described in subparagraph (e)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or
 - (3) Any item of supply being produced that does not meet the requirements of subparagraph (e)(1) or (e)(2) solely because the item is not yet in use.
- (f) **Contracting Officer** means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (g) Except as otherwise provided in this contract, the term **subcontracts** includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract. (FAR 52.202-1)

11.02 COMPUTER GENERATED FORMS (JAN 1991)

- (a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, PROVIDED there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form Number and edition date.
- (b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form PROVIDED there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.
- (c) If the Contractor submits a computer generated version of a form that is different from the required form, then the rights and obligations of the parties will be determined based on the content of the required form. (FAR 52.253-1)

11.06 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including—

- (1) Cost or pricing data if required in accordance with subpart 15.403-4 of the Federal Acquisition Regulation (FAR); and
- (2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to—

- (1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or
- (2) Final adjustments under an incentive provision of the contract.

(DFARS 252.243-7002)

11.07 REQUIRED CENTRAL CONTRACTOR REGISTRATION (MAR 1998)

(a) **DEFINITIONS.** As used in this clause--

(1) **Central Contractor Registration (CCR) database** means the primary DoD repository for Contractor information required for the conduct of business with DoD.

(2) **Data Universal Numbering Systems (DUNS) number** means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) **Data Universal Numbering System + 4 (DUNS+4) number** means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) **Registered in the CCR database** means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423 or via the Internet at <http://ccr.edi.disa.mil>. (DFARS 252.204-7004)

11.19 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any DOD FAR Supplement Regulation (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation. (FAR 52.252-6)

11.22 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price-type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract.

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime Contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract. (FAR 52.203-10)

11.22-1 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract;

or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract. (FAR 52.203-8)

11.24 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) DEFINITIONS.

Agency, as used in this clause, means executive agency as defined in 2.101.

Covered Federal action, as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization, as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.
- (3) A special Government employee, as defined in section 202, title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Reasonable compensation, as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment, as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) PROHIBITIONS.

(1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) AGENCY AND LEGISLATIVE LIAISON BY OWN EMPLOYEES.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(a) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) PROFESSIONAL AND TECHNICAL SERVICES.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(b) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for

example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(a) and (b) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iii) **DISCLOSURE.**

(A) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payments using nonappropriated funds (to INCLUDE profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(B) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subdivision (A) of this clause. An event that materially affects the accuracy of the information reported includes--

(a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;

(b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(c) A change in the officer(s), employee(s), or Members(s) contacted to influence or attempt to influence a covered Federal action.

(C) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(D) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(iv) **AGREEMENT.** The Contractor agrees not to make any payment prohibited by this clause.

(v) **PENALTIES.**

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(B) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(vi) **COST ALLOWABILITY.** Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision. (FAR 52.203-12)

I2 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the Contractor. (DFARS 252.204-7003)

I2.06 CHANGES - FIXED-PRICE (ALT II) (APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the DISPUTES clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed. (FAR 52.243-1/Alt II)

I3 EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer. (FAR 52.232-11)

I3.01 PROMPT PAYMENT (JUN 1997)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in Section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) INVOICE PAYMENTS.

(1) DUE DATE.

(i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) CERTAIN FOOD PRODUCTS AND OTHER PAYMENTS.

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities, and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Public Law 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but no later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in Section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in Section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream,

mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) **CONTRACTOR'S INVOICE.** The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish, and 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils) with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) **INTEREST PENALTY.** An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) **COMPUTING PENALTY AMOUNT.** The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) **PROMPT PAYMENT DISCOUNTS.** An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) **ADDITIONAL INTEREST PENALTY.**

(i) A penalty amount, calculated in accordance with subdivision (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1.00 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(a) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(b) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(c) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(a) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(b) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii) (A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty except--

(a) The additional penalty shall not exceed \$5,000;

(b) The additional penalty shall never be less than \$25; and

(c) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.00.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based on individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) **CONTRACT FINANCING PAYMENTS.**

(1) **Due Dates For Recurring Financing Payments.** If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (insert day as prescribed by Agency head; if not prescribed, insert 30th day) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) **Due Dates For Other Contract Financing.** For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) **Interest Penalty Not Applicable.** Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) **FAST PAYMENT PROCEDURE DUE DATES.** If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice. (FAR 52.232-25)

14 DISCOUNTS FOR PROMPT PAYMENT (MAY 1997)

(a) Discounts for prompt payments will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when the Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(FAR 52.232-8)

17 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)

(a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20 percent post-consumer material.

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printing and writing paper such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products. (FAR 52.204-4)

18.02 ASSIGNMENT OF CLAIMS (ALT I) (APR 1984)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence. Unless otherwise stated in this contract, payments to an assignee of any amounts due or to become due under this contract shall not, to the extent specified in the Act, be subject to reduction or setoff.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(FAR 52.232-23/Alt I)

111.03 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a) (1) The Government may, subject to paragraphs (c) and (d) below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below); or
- (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the DISPUTES clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.249-8)

I11.04 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (FAR 52.242-13)

I12.01 DISPUTES (OCT 1995)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) **Claim**, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) Contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim--

(A) Exceeding \$50,000; or

(B) Regardless of the amount claimed, when using--

(a) Arbitration conducted pursuant to 5 U.S.C. 575-580; or

(b) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. If the Contractor refuses an offer for alternative disputes resolution, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request. When using arbitration conducted pursuant to 5 U.S.C. 575-580, or when using any other ADR technique that the agency elects to handle in accordance with the ADRA, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d)(2)(iii) of this clause, and executed in accordance with subparagraph (d)(3) of this clause.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer. (FAR 52.233-1)

I12.03 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the DEFAULT, or the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; PROVIDED, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government. (FAR 52.233-3)

I15.03 CONVICT LABOR (AUG 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment that has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(a) (1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, nor be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, nor impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(FAR 52.222-3)

I16.01 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 1995)

(a) **OVERTIME REQUIREMENTS.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) **VIOLATION; LIABILITY FOR UNPAID WAGES; LIQUIDATED DAMAGES.** In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) **WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES.** The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) **PAYROLLS AND BASIC RECORDS.**

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) **SUBCONTRACTS.** The Contractor or subcontractor shall insert in any subcontracts exceeding \$100,000 the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause. (FAR 52.222-4)

I18 SPECIAL PROHIBITION ON EMPLOYMENT (JUN 1997)

(a) DEFINITIONS.

As used in this clause--

(1) **Arising out of a contract with the DoD** means any act in connection with--

(i) Attempting to obtain;

(ii) Obtaining; or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) **Conviction of fraud or any other felony** means any conviction for fraud or a felony in violation of state or Federal criminal statutes whether entered on a verdict or plea, including a plea of no lo contendere, for which sentence has been imposed.

(3) **Date of Conviction** means the date judgment was entered against the individual.

(b) 10 U.S.C. 2408 provides that any individual who is convicted after 29 September 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from--

(1) Working in a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) Serving on the board of directors of any DoD Contractor or first-tier subcontractor; or

(3) Serving on as a consultant to any DoD Contractor or first-tier subcontractor.

(c) Unless waived, the prohibition in paragraph (b) applies for five years from the date of conviction.

(d) 10 U.S.C. 2408 further provides that a defense Contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the Contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as--

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibitions in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify--

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Benefits Office, U.S. Department of Justice, telephone (202) 616-3507. (DFARS 252.203-7001)

I18.02 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) **Segregated facilities**, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies, or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the EQUAL OPPORTUNITY clause in the contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the EQUAL OPPORTUNITY clause of this contract. (FAR 52.222-21)

I18.03 EQUAL OPPORTUNITY (FEB 1999)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records) and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontractor or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; PROVIDED, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1. (FAR 52.222-26)

I18.06 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline posters prepared by the Office of the Inspector General, DoD.

(b) DoD Hotline posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports. (DFARS 252.203-7002)

I19 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998)

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12) for contracts and subcontracts that are subject to Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99). For contracts and subcontracts that are not subject to CAS, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS-covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

(d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirements of FAR 15.408(g). (FAR 52.215-15)

I20 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) (1) **Bona fide agency**, as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(2) **Bona fide employee**, as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

(3) **Contingent fee**, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

(4) **Improper influence**, as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(FAR 52.203-5)

I24 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(FAR 52.222-1)

I25 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(FAR 52.227-1)

I27 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
- (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

- (1) To pursue the same remedies as in a breach of the contract; and
- (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times

the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-3)

I28.16 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

(a) **Contract date**, as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

(1) **All applicable Federal, State, and local taxes and duties**, as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

(2) **After-imposed Federal tax**, as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

(3) **After-relieved Federal tax**, as used in this clause, means any amount of federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption. (FAR 52.229-3)

I31.05 LIMITATION OF PRICE AND CONTRACTOR OBLIGATIONS (DESC OCT 1984)

(a) Funds available for performance are described in the Schedule. The amount of funds available at award is not considered sufficient for the performance required for any program year other than the first program year. When additional funds are available for the full requirements of the next succeeding program year, the Contracting Officer shall, not later than the date specified in the Schedule (unless a later date is agreed to), so notify the Contractor in writing. The Contracting Officer shall also modify the amount of funds described in the Schedule as available for contract performance. This procedure shall apply for each successive program year.

(b) The Government is not obligated to the Contractor for any amount over that described in the Schedule as available for contract performance.

(c) The Contractor is not obligated to incur costs for the performance required for any program year after the first unless and until written notification is received from the Contracting Officer of an increase in availability of funds. If so notified, the Contractor's obligation shall increase only to the extent contract performance is required for the additional program year for which funds are made available.

(d) If this contract is terminated under the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT clause, "total contract price" in that clause means the amount available for performance of this contract, as in (a) above. "Work under the contract" in that clause means the work under program year requirements for which funds have been made available. If the contract is terminated for default, the Government's rights under this contract shall apply to the entire multiyear requirements.

(e) Notification to the Contractor of an increase or decrease in the funds available for performance of this contract under another clause (e.g., an OPTION or CHANGES clause) shall not constitute the notification contemplated by (a) above.

(DESC 52.217-9F75)

I31.06 LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; **provided** that this limitation shall not apply to--

(a) Withholdings pursuant to any clause relating to wages or hours of employees;

(b) Withholdings not specifically provided for by this contract;

(c) The recovery of overpayments; and

(d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

(FAR 52.232-9)

I32 CANCELLATION UNDER MULTIYEAR CONTRACTS (OCT 1997)

(a) **Cancellation**, as used in this clause, means that the Government is canceling its requirements for all supplies or services in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the Schedule, unless a later date is agreed to, if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year, or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.

(b) Except for cancellation under this clause or termination under the DEFAULT clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT clause.

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the Schedule as applicable at the time of cancellation.

(d) The cancellation charge will cover only (1) costs (i) incurred by the Contractor and/or subcontractor, (ii) reasonably necessary for performance of the contract, and (iii) that would have been equitably amortized over the entire multiyear contract period but, because of the cancellation, are not so amortized, and (2) a reasonable profit or fee on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT clause of this contract. The Contractor shall submit the claim promptly but no later than one year from the date (1) of notification of the non-availability of funds, or (2) specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.

(f) The Contractor's claim may include--

(1) Reasonable nonrecurring costs (see FAR Subpart 15.4) that are applicable to and normally would have been amortized in all supplies or services that are multiyear requirements;

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and

(4) Costs not amortized by the unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.

(g) The claim shall not include--

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;

(2) Any cost already paid to the Contractor;

(3) Anticipated profit or unearned fee on the canceled work; or

(4) For service contracts, the remaining useful commercial life of facilities. Useful commercial life means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

(h) This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in option quantities any costs of a startup or nonrecurring nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those recurring costs and a reasonable profit or fee necessary to furnish the additional option quantities.

(i) Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(FAR 52.217-2)

I33 INTEREST (JUN 1996)

(a) Except as otherwise provided in this contract under a PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA clause or a COST ACCOUNTING STANDARDS clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in

which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract. (FAR 52.232-17)

I36.03 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination. (FAR 52.249-4)

I43.01 LIMITATION OF LIABILITY - SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract. (FAR 52.246-25)

THE FOLLOWING CLAUSE APPLIES TO UNRESTRICTED ITEMS ONLY AND, IF APPLICABLE, ANY TOTAL SET-ASIDE ITEMS.

I84 REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the ORDERING clause. Subject to any limitations in the ORDER LIMITATIONS clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the ORDERING clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; PROVIDED, that the Contractor shall not be required to make any deliveries under this contract after the last day of the contract performance period. (FAR 52.216-21)

I90 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.
(FAR 52.225-13)

I94 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which —

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the “as of” date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if -

(A) The understated data were known by the Contractor to be understated before the “as of” date specified on its Certificate of Current Cost or Pricing Data was signed; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the “as of” date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(FAR 52.215-10)

195 AUDIT AND RECORDS -- NEGOTIATION (JUN 1999)

(a) As used in this clause, **records** includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) **EXAMINATION OF COSTS.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing this contract.

(c) **COST OR PRICING DATA.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract, or modification.

(d) **COMPTROLLER GENERAL.**

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) **REPORTS.** If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating--

- (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
- (2) The data reported.

(f) **AVAILABILITY.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

- (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
- (2) The Contractor shall make available records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(FAR 52.215-2)

I96.02 PRICING ADJUSTMENTS (DEC 1991)

The term **pricing adjustment**, as used in paragraph (a) of the PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS, SUBCONTRACTOR COST OR PRICING DATA, and SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS clauses means the aggregate increases and/or decreases in cost plus applicable profits.

(DFARS 252.215-7000)

I97.02 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(FAR 52.215-13)

I98 PROTECTING THE GOVERNMENT'S INTERESTS WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)

(a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(FAR 52.209-6)

I100 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)**(a) DEFINITIONS.**

(1) **Act**, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

(2) **Contractor**, as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(3) **Service employee**, as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as the terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) **APPLICABILITY.** This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) COMPENSATION.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid in the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classification based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) **OBLIGATION TO FURNISH FRINGE BENEFITS.** The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) **MINIMUM WAGE.** In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) **SUCCESSOR CONTRACTS.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wage and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligations unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contractor was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) **NOTIFICATION TO EMPLOYEES.** The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) **SAFE AND SANITARY WORKING COMDITIONS.** The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) **RECORDS.**

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act--

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) **PAY PERIODS.** The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semimonthly.

(k) **WITHHOLDING OF PAYMENTS AND TERMINATION OF CONTRACT.** The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) **SUBCONTRACTS.** The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) **COLLECTIVE BARGAINING AGREEMENTS APPLICABLE TO SERVICE EMPLOYEES.** If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) **SENIORITY LIST.** Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) **RULINGS AND INTERPRETATIONS.** Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) **CONTRACTOR'S CERTIFICATION.**

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statement is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) **VARIATIONS, TOLERANCES, AND EXEMPTIONS INVOLVING EMPLOYMENT.** Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment and apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under two acts authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) **APPRENTICES.** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) **TIPS.** An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(n) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision--

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) **DISPUTES CONCERNING LABOR STANDARDS.** The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees of their representatives.

(FAR 52.222-41)

II02 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 1989)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as

amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under the contract.

(FAR 52.222-43)

1102.01 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MAY 1989)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for contingency to cover increased costs for which adjustment is provided under this clause.

(c) The contract price or contract unit price labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with--

(1) An increased or decreased wage determination applied to this contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(d) Any such adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (b) of this clause, and to the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance; it shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

(FAR 52.222-44)

I102.02 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT -- PAYROLL TAX ADJUSTMENT (DESC JUL 1988)

(a) The Contractor warrants that the prices set forth in this contract do not include any contingency allowance for increased costs for which adjustment is provided by this clause.

(b) When payroll taxes that are applicable to this contract by law (i.e., Workmen's Compensation, Federal Unemployment Insurance (FUI), State Unemployment Insurance (SUI), and Federal Insurance Compensation (FICA) rates) are revised or imposed after award, increasing or decreasing the Contractor's costs under this contract, the contract price or contract unit price will be adjusted to reflect the changes. This adjustment shall be limited to increases or decreases in payroll taxes and shall not include any amount for general and administrative cost, overhead, or profit.

(c) The Contractor shall notify the Contracting Officer of any increases or decreases claimed under this clause within 30 days after the effective date of the change in payroll taxes, unless this period is extended by the Contracting Officer in writing. In the case of any decrease in payroll taxes, if a Contractor fails to promptly notify the Contracting Officer, the Government retains the right to submit a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof that may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price shall be modified in writing. Pending agreement on or determination of any such adjustment and its effective date, the Contractor shall continue performance.

(d) The Contracting Officer or his authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

(DESC 52.222-9F10)

I102.03 DRUG-FREE WORK FORCE (SEP 1988)

(a) DEFINITIONS.

(1) **Employee in a sensitive position**, as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) **Illegal drugs**, as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objective of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, the efficient use of Contractor resources, and the risk to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of Subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs

until such time as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing programs shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session. (DFARS 252.223-7004)

I102.04 DRUG-FREE WORKPLACE (JAN 1997)

(a) **DEFINITIONS.** As used in this clause--

(1) **Controlled substance** means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

(2) **Conviction** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

(3) **Criminal drug statute** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

(4) **Drug-free workplace** means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

(5) **Employee** means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

(6) **Individual** means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall - within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration); or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (a)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment. (FAR 52.223-6)

I114 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (DEC 1989)

(a) GOVERNMENT-FURNISHED PROPERTY.

(1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as-is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) CHANGES IN GOVERNMENT-FURNISHED PROPERTY.

(1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract, or (ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any--

- (i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or
- (ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) TITLE IN GOVERNMENT PROPERTY.

(1) The Government shall retain title to all Government-furnished property.

(2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract--

- (i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and
- (ii) Title to all other material shall pass to and vest in the Government upon--
 - (A) Issuance of the material for use in contract performance;
 - (B) Commencement of processing of the material or its use in contract performance; or
 - (C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(d) **USE OF GOVERNMENT PROPERTY.** The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) PROPERTY ADMINISTRATION.

(1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) **ACCESS.** The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) **LIMITED RISK OF LOSS.** Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(h) **EQUITABLE ADJUSTMENT.** When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

- (1) Any delay in delivery of Government-furnished property;
- (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of Government-furnished property; or
- (4) Failure to repair or replace Government property for which the Government is responsible.

(i) **FINAL ACCOUNTING AND DISPOSITION OF GOVERNMENT PROPERTY.** Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) **ABANDONMENT AND RESTORATION OF CONTRACTOR'S PREMISES.** Unless otherwise provided herein, the Government--

- (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
- (2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) **COMMUNICATIONS.** All communications under this clause shall be in writing.

(l) **OVERSEAS CONTRACTS.** If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively. (FAR 52.245-2)

I117 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price. (FAR 52.237-2)

I131 INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request. (FAR 52.228-5)

I132.02 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications);
- (b) Representations and other instructions;
- (c) Contract clauses;
- (d) Other documents, exhibits, and attachments; and
- (e) The specifications. (FAR 52.215-8)

I136 COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Public Law 101-510, section 831, as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés. (FAR 52.244-5)

I150.17 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (FEB 1997)

The Government shall pay the Contractor as follows upon the submission of invoices or vouchers approved by the Contracting Officer:

(a) HOURLY RATE.

(1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer), to the Contracting Officer or designee. The Contractor shall substantiate vouchers by evidence of actual payment and by individual daily job timecards, or other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the terms of (e) below, pay the voucher as approved by the Contracting Officer.

(2) Unless otherwise prescribed in the Schedule, the Contracting Officer shall withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) below.

(3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the DISPUTES clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) MATERIALS AND SUBCONTRACTS.

(1) Allowable costs of direct materials shall be determined by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract. Reasonable and allocable material handling costs may be included in the charge for material to the extent they are clearly excluded from the hourly rate. Material handling costs are comprised of

indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or other forms of actual payment have been made for such purchased items or services. Direct materials, as used in this clause, are those materials which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of the end product.

(2) The cost of subcontracts that are authorized under the subcontracts clause of this contract shall be reimbursable costs under this clause; provided, that the costs are consistent with subparagraph (3) below. Reimbursable costs in connection with subcontracts shall be limited to the amounts paid to the subcontractor for items and services purchased directly for the contract only when cash, checks, or other form of payment has been made for such purchased items or services; however, this requirement shall not apply to a Contractor that is a small business concern. Reimbursable costs shall not include any costs arising from the letting, administration or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under (a)(1) above.

(3) To the extent able, the Contractor shall--

(i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the contractor shall promptly notify the Contracting Officer and give the reasons. Credit shall be given to the government for cash and trade discounts, rebates, allowances, credits, salvage, the value of any appreciable scrap, commissions, and other amounts that have accrued to the benefit of the contractor, or would have accrued except for the fault or neglect of the Contractor. The benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the government, shall not be deducted from gross costs.

(c) **TOTAL COST.** It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under this contract.

(d) **CEILING PRICE.** The Government shall not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that the ceiling price has been increased and shall have specified in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(e) **AUDIT.** At any time before final payment under this contract the Contracting Officer may request audit of the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of (f) and (g) below, the Government shall promptly any balance due the Contractor). The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) **ASSIGNMENT.** The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason its indemnification of the government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) **REFUNDS.** The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to the Contracting Officer. (FAR 52.232-7)

I168 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

(a) **DEFINITIONS.** As used in this clause--

All employment openings includes all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

Positions that will be filled from within the Contractor's organization means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) **GENERAL.**

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or a veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) **LISTING OPENINGS.**

(1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(d) **APPLICABILITY.** This clause does not apply to the listing of employment openings that occur and are filled outside the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(e) **POSTINGS.**

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam era.

(f) **NONCOMPLIANCE.**

If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) **SUBCONTRACTS.**

The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance. (FAR 52.222-35)

I169 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date (1) as of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) **SUBCONTRACTS.** The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. (FAR 52.222-37)

I170 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 1999)

(a) It is the policy of the United States that small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) **DEFINITIONS.** As used in this contract--

(1) **Small business concern** means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) **HUBZone small business concern** means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(3) **Small business concern owned and controlled by socially and economically disadvantaged individuals** means an offeror that represents, as part of its offer, that--

(i) It is a small business under the size standard applicable to the acquisition;

(ii) It has received certification as a small disadvantaged business concern consistent with 13 CFR Part 124, Subpart

B;

(iii) No material change in disadvantaged ownership and control has occurred since its certification;

(iv) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking in account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(v) It is listed, on the date of its representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration.

(4) **Small business concern owned and controlled by women** means a small business concern--

(i) Which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women; and

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women. (FAR 52.219-8)

I171 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999)

(a) This clause does not apply to small business concerns.

(b) **DEFINITIONS.** As used in this clause--

(1) **Commercial item** means a product or service that satisfies the definition of commercial items in section 2.101 of the Federal Acquisition Regulation.

(2) **Commercial plan** means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

(3) **Individual contract plan** means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

(4) **Master plan** means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

(5) **Subcontract means** any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small

business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

- (1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.
- (2) A statement of --
 - (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
 - (ii) Total dollars planned to be subcontracted to small business concerns;
 - (iii) Total dollars planned to be subcontracted to HUBZone small business concerns; and
 - (iv) Total dollars planned to be subcontracted to small disadvantaged business concerns; and
 - (v) Total dollars planned to be subcontracted to women-owned small business concerns
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--
 - (i) Small business concerns;
 - (ii) HUBZone small business concerns;
 - (iii) Small disadvantaged business concerns;
 - (iv) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, small disadvantaged and women-owned small business concerns trade associations). A firm may rely on the information contained in PASS as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. Use of the PASS as its source list does not relieve a firm of its responsibilities (i.e., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with--
 - (i) Small business concerns;
 - (ii) HUBZone small business concerns;
 - (iii) Small disadvantaged business concerns, and
 - (iv) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause in this contract entitled UTILIZATION OF SMALL BUSINESS CONCERNS in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to the plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will--
 - (i) Cooperate in any studies or surveys as may be required;
 - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
 - (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, following the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and
 - (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

- (A) Whether small business concerns were solicited and if not, why not;
- (B) Whether HUBZone small business were solicited and, if not, why not;
- (C) Whether small disadvantaged business concerns were solicited and if not, why not;
- (D) Whether women-owned small business concerns were solicited and if not, why not, and
- (E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

- (A) Trade associations;
- (B) Business development organizations, and
- (C) Conferences and trade fairs to locate small business, HUBZone small business, small disadvantaged

business, and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through--

- (A) Workshops, seminars, training, etc., and
- (B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--

- (1) The master plan has been approved;
- (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime Contractor is supplying a commercial item.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with--

- (1) The clause of this contract entitled UTILIZATION OF SMALL BUSINESS CONCERNS; or
- (2) An approved plan required by this clause, shall be a material breach of the contract.

(j) **STANDARD FORM 295, SUMMARY SUBCONTRACT REPORT.** This report encompasses all the contracts with the awarding agency. It must be submitted semiannually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a

breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group. (FAR 52.219-9)

I171.01-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JAN 1999)

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at FAR 52.219-9, SMALL BUSINESS SUBCONTRACTING PLAN. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219-9.

(b) **DEFINITIONS.** As used in this clause--

Indian means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any **Native** as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., Chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a prime Contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the self-certification of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the self-certification of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), ATTN: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The five percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

- (i) The estimated cost of a cost-type contract;
- (ii) The target cost of a cost-plus-incentive-fee prime contract;
- (iii) The target cost and ceiling price of a fixed-price incentive prime contract; or
- (iv) The price of a firm-fixed-price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be five percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(d) The Contracting Officer, subject to the terms and conditions of the contract and availability of funds, shall authorize an incentive payment of five percent of the amount paid to the subcontractor. The Contracting Officer shall seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the DISPUTES clause of this contract.(FAR 52.226-1)

I171.01-2 SMALL BUSINESS SUBCONTRACTING PLAN (ALT II) (JAN 1999/JAN 1999)

(a) This clause does not apply to small business concerns.

(b) **DEFINITIONS.**

(1) **Commercial product**, as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product that, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

(2) **Subcontract**, as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contracting or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan, which separately addresses subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentage of total planned subcontracting dollars, for the use of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

- (i) Total dollars planned to be subcontracted;
- (ii) Total dollars planned to be subcontracted to small business concerns;
- (iii) Total dollars planned to be subcontracted to HUBZone small business concerns; and
- (iv) Total dollars planned to be subcontracted to small disadvantaged business concerns; and
- (v) Total dollars planned to be subcontracted to women-owned small business concerns

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

- (i) Small business concerns;
- (ii) HUBZone small business concerns;
- (iii) Small disadvantaged business concerns;
- (iv) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Agency in the Department of Commerce, or small, small disadvantaged and women-owned small business concerns trade associations). A firm may rely on the information contained in PASS as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. Use of the PASS as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. Use of the PASS as it source list does not relieve a firm of its responsibilities (i.e., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with--

- (i) Small business concerns;
- (ii) HUBZone small business concerns;
- (iii) Small disadvantaged business concerns, and
- (iv) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause in this contract entitled UTILIZATION OF SMALL BUSINESS CONCERNS in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to the plan that complies with the requirements of this clause.

(10) Assurances that the offeror will--

- (i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, following the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

(A) Whether small business concerns were solicited and if not, why not;

(B) Whether HUBZone small business were solicited and, if not, why not;

(C) Whether small disadvantaged business concerns were solicited and if not, why not;

(D) Whether women-owned small business concerns were solicited and if not, why not, and

(E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

(A) Trade associations;

(B) Business development organizations, and

(C) Conferences and trade fairs to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through--

(A) Workshops, seminars, training, etc., and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrent of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year or by an agency satisfactory to the Contracting Officer.

(3) The approval plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliances of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with--

(1) The clause of this contract entitled UTILIZATION OF SMALL BUSINESS CONCERNS; or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(j) **STANDARD FORM 295, SUMMARY SUBCONTRACT REPORT.** This report encompasses all the contracts with the awarding agency. It must be submitted semiannually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

(FAR 52.219-9/ALT II)

I171.01-3 SOCIOECONOMIC PROPOSAL (FEB 1999*) - DLAD

In addition to any subcontracting plan required by SMALL BUSINESS SUBCONTRACTING PLAN clause--

(a) Provide a description of the efforts your company will make to assure that small, small disadvantaged, and women-owned small business concerns will have equal opportunity to compete for subcontracts under any resulting contract. Describe your current and planned proposed range for services, supplies, and any other support that will be provided to you by small, small disadvantaged, and women-owned small business concerns. Include specific names of subcontractors to the extent they are known.

(b) Describe any future plans your company has for developing additional subcontracting opportunities for small, small disadvantaged, and women-owned small business concerns during the contract period.

(c) Specify what portion of your proposal, as a percentage of dollars, will be subcontracted to small, small disadvantaged, and women-owned small businesses.

(d) Specify what type of performance data you will accumulate and provide to the Contracting Officer regarding your support of small, small disadvantaged, and women-owned small businesses during the period of contract performance. Provide the name and title of the individual principally responsible for ensuring company support to such firms. (DLAD 52.215-9002)

***unofficial update (embedded FAR clause title revision)**

I171.03 SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN clause of this contract.

(a) **DEFINITIONS.**

(1) **Historically black colleges and universities**, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

(2) **Minority institutions**, as used in this clause, means institutions meeting the requirements of Section 31046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term "small disadvantaged business," when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when--

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation; and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who Are Blind or Severely Disabled (41 U.S.C. 46-48) may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protégé Program established under section 831 of Public Law 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

- (1) Protégé firms that are qualified organizations employing the severely handicapped; and
- (2) Former protégé firms that meet the criteria in Section 831(g)(4) of Public Law 101-510.

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans that specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantage, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable. (DFARS 252.219-7003)

I171.07 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999)

(a) **Failure to make a good faith effort to comply with the subcontracting plan**, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled SMALL BUSINESS SUBCONTRACTING PLAN, or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled SMALL BUSINESS SUBCONTRACTING PLAN, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled DISPUTES, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have. (FAR 52.219-16)

I176 COST ACCOUNTING STANDARDS (APR 1998)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall--

(1) **(CAS-covered Contracts Only).** By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price

as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modification to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4) (i) Agree to an equitable adjustment as provided in the CHANGES clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; PROVIDED, that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the CHANGES clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904, or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$500,000, except that the requirements shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. (FAR 52.230-2)

I176.03 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998)

(a) The Contractor, in connection with this contract, shall--

(1) Comply with the requirements of 48 CFR 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 48 CFR 9904.405, Accounting for Unallowable Costs; and 48 CFR 9904.406, Cost Accounting Standards - Cost Accounting Period, in effect on the date of award of this contract as indicated in 48 CFR 9904.

(2) **(CAS-covered Contracts only).** If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3) (i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR 9903.201-6(b), that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the CHANGES clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the

United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate of interest established under the Internal Revenue Code of 1986 (26 U.S.C. 6621) from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in 48 CFR 9903 and 9904, and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that--

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted.

(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. (FAR 52.230-3)

1176.05 ADMINISTRATION OF COST ACCOUNTING STANDARDS (APR 1996)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (g) of this clause.

(a) Submit to the Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed-fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, COST ACCOUNTING STANDARDS; or subparagraph (a)(3) and subdivision (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, COST ACCOUNTING STANDARDS, and FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; or with subparagraph (a)(3) of the clause as FAR 52.230-3, DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by subparagraph (a)(5) at FAR 52.230-2, COST ACCOUNTING STANDARDS, and FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; or by subparagraph (a)(4) at FAR 52.230-3, DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES):

(i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) After an ACO, or cognizant Federal agency official, determination of materiality, submit a cost impact proposal in the form and manner specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, COST ACCOUNTING STANDARDS; or subparagraph (a)(3) and subdivision (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled COST

ACCOUNTING STANDARDS or COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION, that have an award date before the effective date of that standard or cost principle.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, COST ACCOUNTING STANDARDS, and FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; or with subparagraph (a)(3) of the clause at FAR 52.230-3, DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES; shall identify all contracts and subcontracts containing the clauses at FAR 52.230-2, COST ACCOUNTING STANDARDS, FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION, and FAR 52.230-3, DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES.

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the clauses at FAR 52.230-2, COST ACCOUNTING STANDARDS, and FAR 52.230-5, COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION; or by subparagraph (a)(4) of the clause at FAR 52.230-3, DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES, shall identify the cost impact on each separate CAS-covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the Contracting Officer.

(d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with subparagraphs (a)(4) and (a)(5) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with subparagraph (a)(3) or (a)(4) of the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause at FAR 52.230-3.

(e) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5--

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used); and

(2) Include the substance of this clause in all negotiated subcontracts. In addition, within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administrative office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(iv) Any changes the subcontractor has made or proposes to make to cost accounting practices that affect prime contracts or subcontracts containing the clauses at 52.230-2, 52.230-3, or 52.230-5, unless these changes have already been reported. If award of the subcontract results in making one or more CAS effective for the first time, this fact shall also be reported.

(f) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontract or the prime contract appropriately.

(g) For subcontracts containing the clauses at FAR 52.230-2 or 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier. (FAR 52.230-6)

THE FOLLOWING CLAUSE IS APPLICABLE TO FACILITIES LOCATED IN THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS.

I180 CLEAN AIR AND WATER (APR 1984)

(a) **Air Act**, as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.).

(1) **Clean air standards**, as used in this clause, means--

(i) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(ii) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(iii) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(iv) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

(2) **Clean water standards**, as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(3) **Compliance**, as used in this clause, means compliance with --

(i) Clean air or water standards; or

(ii) A schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

(4) **Facility**, as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

(5) **Water Act**, as used in this clause, means Clean Water Act (33 U.S.C. 1251 et seq.).

(b) The Contractor agrees--

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4).

(FAR 52.223-2)

I181 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

(a) **GENERAL.**

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organization structures, position descriptions, lines of progression, and seniority lists;

(v) Leave of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) **POSTINGS.**

(1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual or may lower the posted notice so that it may be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) **NONCOMPLIANCE.** If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) **SUBCONTRACTS.** The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant to enforce the terms, including action for noncompliance. (FAR 52.222-36)

I185.01 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

(a) **DEFINITIONS.** As used in this clause--

Foreign person means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

United States person is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.**

By submitting this offer, the offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the secondary Arab boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the secondary boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking. (DFARS 252.225-7031)

I190.02 HAZARDOUS WASTE LIABILITY (OCT 1992)

(a) **DEFINITIONS.** As used in this clause--

(1) **Hazardous waste** has the meaning given the term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls (PCB).

(2) **Polychlorinated biphenyls (PCB)** has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(b) Upon receipt of hazardous waste properly characterized pursuant to applicable laws and regulations, the Contractor agrees that it shall reimburse the Government for any penalties assessed against, all liabilities incurred by, costs incurred by, and damages suffered by, the Government that are caused by--

(1) The Contractor's breach of any term of the contract; or

(2) Any negligent or willful act or omission of the Contractor or employees of the Contractor, in the performance of the contract.

(c) Not later than 30 days after the award date of the contract, the Contractor shall demonstrate the ability to reimburse the Government as provided in paragraph (b) of this clause, by providing evidence to the Contracting Officer that--

(1) The facility has liability insurance meeting the requirements of 40 CFR 264.147; or

(2) The facility meets the financial assurance requirements of 40 CFR 264.147 for sudden and nonsudden accidental occurrences.

(d) This clause does not apply to--

(1) Performance of remedial action or corrective action under--

(i) The Defense Environmental Restoration Program;

(ii) Other programs or activities of the Department of Defense; or

(iii) Authorized State hazardous waste programs;

(2) Disposal of hazardous waste when the generation of such waste is incidental to the performance of the contract; or

(3) Disposal of ammunition or solid rocket motors.

(e) The Contractor shall include this clause, including this paragraph (e), in each subcontract under which the subcontractor receives hazardous waste from a defense facility. (DFARS 252.223-7005)

I190.03 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) **DEFINITIONS.** As used in this clause--

(1) **Storage** means a nontransitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) **Toxic or hazardous materials** means--

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR Part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee. (DFARS 252.223-7006)

I190.05 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C.11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856. (FAR 52.223-5)

I197 EQUAL OPPORTUNITY PREAWARD CLEARANCE OF SUBCONTRACTS (APR 1984)

Notwithstanding the clause of this contract entitled SUBCONTRACTS, the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of \$1 million or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.

(FAR 52.222-28)

I198 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR Part 31 and DFARS Part 231, in effect on the date of this contract, apply. (DFARS 252.243-7001)

I203 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with Part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with Part 231 of the Defense FAR Supplement, in effect on the date of this contract. (DFARS 252.231-7000)

I209.14 EXTENSION PROVISIONS (ENVIRONMENTAL) (DESC SEP 1997)

The Government shall have the right to extend this contract upon the same terms and conditions on a month-by-month basis for a total of no more than 6 months. Notice of extensions may be furnished any time prior to the expiration of this contract or any

extension thereof. The foregoing extensions may be exercised by the Government only if (a) a decision is made by the Government that the additional time is required to complete work under task orders issued prior to the contract expiration date, (b) a contract for follow-on services is terminated for default by the Government prior to commencement of services, or (c) where the extension is required to sustain performance because of difficulties encountered in award of the follow-on contract. (DESC 52.217-9F45)

I211 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from date of award through date of award plus five years.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally by facsimile, or by electronic commerce methods only if authorized in the Schedule. (FAR 52.216-18)

I225 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price. (FAR 52.232-1)

I227.01 OBLIGATION OF FUNDS (MULTIYEAR) (DESC FEB 1985)

The time within which the Government shall obligate funds pursuant to paragraph (a) of the LIMITATION OF PRICE AND CONTRACTOR OBLIGATIONS clause shall be at least 30 days prior to expiration of the first program year requirement or any subsequent renewal thereof. (DESC 52.232-9F35)

I229 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) above does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract that exceed \$100,000. (FAR 52.203-6)

NOTE:

ALTERNATE I (OCT 1995), substitute this paragraph (b) for commercial acquisitions.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

I251 ANTI-KICKBACK PROCEDURES (JUL 1995)

(a) **DEFINITIONS.**

(1) **Kickback**, as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(2) **Person**, as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(3) **Prime Contract**, as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(4) **Prime Contractor**, as used in this clause, means a person who has entered into a prime contract with the United States.

(5) **Prime Contractor Employee**, as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

(6) **Subcontract**, as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

(7) **Subcontractor**, as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

(8) **Subcontractor Employee**, as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act) prohibits any person from--

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c) (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) above may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the prime Contractor withhold from sums owed a subcontractor under the prime contract, monies withheld, the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract that exceed \$100,000. (FAR 52.203-7)

I255 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor subject to on-site inspection under the INF Treaty, or a similar treaty, solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility, unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation, except those for commercial items.

(DFARS 252.209-7000)

I285 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$25,000 with a firm, or a subsidiary of a firm, that is identified on the List of Parties Excluded from Federal

Procurement and Nonprocurement Programs as being ineligible for the award of Defenses contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(DFARS 252.209-7004)

I400.09 SUBCONTRACTS (ALT I) (AUG 1998)

(a) **DEFINITIONS.** As used in this clause--

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(f) (1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason why cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(FAR 52.244-2/ALT 1)

I605.01 DISCLOSURE OF INFORMATION (DESC FEB 1992)

The Contractor agrees to notify and obtain the verbal approval of the Contracting Officer prior to releasing any information to any third parties including the news media regarding any work under this contract except as required by law. The Contractor shall immediately notify the Contracting Officer of the receipt of any request by a third party for the disclosure of any information regarding this contract. This requirement shall apply to all subcontractors and project employees. The Contractor is required to include a similar clause in any subcontractor agreement. (DESC 52.224-9F05)

SECTION J – LIST THE DOCUMENTS LISTED BELOW ARE ATTACHED A OF ATTACHMENTS

Wage Determination No. 94-2241 (Rev. 17) dated August 17, 1999

Attachment 1

Offeror Submission Package

Attachment 2

**SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS OR QUOTERS**

K1.01-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that--

(a) It--

☐ has

☐ has not--

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation;

(b) It--

☐ has

☐ has not--

filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(FAR 52.222-22)

K1.01-6 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

THE FAR REPRESENTATION IN THE FOLLOWING PARAGRAPH SHALL BE COMPLETED BY EACH OFFEROR WHOSE OFFER IS \$50,000 OR MORE AND WHO HAS 50 OR MORE EMPLOYEES.

This representation--

☐ DOES APPLY.

☐ DOES NOT APPLY.

The offeror represents that--

(a) It--

☐ has developed and has on file

☐ has not developed and does not have on file--

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(FAR 52.222-25)

K1.01-11 SMALL BUSINESS PROGRAM REPRESENTATIONS (ALTS I/II) (MAY 1999/NOV 1999/NOV 1999)

(a) (1) The standard industrial classification (SIC) code for this acquisition is _____8999_____.

(2) The small business size standard is ____\$5 million_____.

(3) The small business size standard for a concern that submits an offer in its own name, other than on a construction or service contract, but that proposes to furnish a product that it did not itself manufacture, is 500 employees.

(b) **REPRESENTATIONS.**

(1) The offeror represents as part of its offer that it--

☐ is,

☐ is not

a small business concern.

(2) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents, for general statistical purposes, that it--

☐ is,

☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents as part of its offer that it--

☐ is,

☐ is not

a women-owned small business concern.

(4) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents, as part of its offer, that--

(i) It--

☐ is

☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It--

☐ is

☐ is not

a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in subdivision (b)(4)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:**

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(5) Complete if the offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

- ☐ Black American.
- ☐ Hispanic American.
- ☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- ☐ Asian Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- ☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- ☐ Individual/concern, other than one of the preceding.

(c) **DEFINITIONS.**

(1) **Small business concern**, as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

(2) **Women-owned small business concern**, as used in this provision, means a small business concern--

- (i) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (ii) Whose management and daily business operations are controlled by one or more women.

(d) **NOTICE.**

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

- (i) Be punished by imposition of a fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

(FAR 52.219-1/Alts I/II)

K1.06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “**DUNS**” followed by the DUNS number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at **1-800-333-0505**. The offeror should be prepared to provide the following information:

- (1) Company name;
- (2) Company address;
- (3) Company telephone number;
- (4) Line of business;
- (5) Chief executive officer/key manager;
- (6) Date the company was started;
- (7) Number of people employed by the company; and
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an email to Dun and Bradstreet at globalinfo@mail.dnb.com. (FAR 52.204-6)

K7 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (APR 1998)

NOTE: This notice does not apply to small businesses or foreign governments.

This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT - COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$500,000 resulting from this solicitation, will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts that are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) **CERTIFICATE OF CONCURRENT SUBMISSION OF DISCLOSURE STATEMENT.**

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant contract auditor.

(Disclosure must be on Form Number CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____

Name and address of cognizant ACO or Federal official where filed:

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

☐ (2) **CERTIFICATE OF PREVIOUSLY SUBMITTED DISCLOSURE STATEMENT.**

The offeror hereby certifies that Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and address of cognizant ACO or Federal official where filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

☐ (3) **CERTIFICATE OF MONETARY EXEMPTION.**

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$25 million (of which at least one award exceeded \$1 million) in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

☐ (4) **CERTIFICATE OF INTERIM EXEMPTION.**

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$25 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS - ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause in lieu of the COST ACCOUNTING STANDARDS clause.

☐ The offeror hereby claims an exemption from the COST ACCOUNTING STANDARDS clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$25 million in awards of CAS-covered prime contracts and subcontracts, or the offeror did not receive a single CAS-covered award exceeding \$1 million. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$25 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$25 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the COST ACCOUNTING STANDARDS clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ YES

☐ NO

(FAR 52.230-1)

K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(FAR 52.203-2)

K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

(DESC 52.215-9F28)

K41 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) **DEFINITION. Women-owned business concern**, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) **REPRESENTATION.** (Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, SMALL BUSINESS PROGRAM REPRESENTATIONS, of this solicitation.) The offeror represents that it [] is, [] is not a women-owned business concern.

(FAR 52.204-5)

K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) **DEFINITIONS.** As used in this provision--

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) **Significant interest**, as used in this provision means--

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each Government. (DFARS 252.209-7001)

K88 TAXPAYER IDENTIFICATION (OCT 1998)

(a) **DEFINITIONS.**

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) **TAXPAYER IDENTIFICATION NUMBER (TIN).**

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because--

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) **TYPE OF ORGANIZATION.**

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(f) **COMMON PARENT.**

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

[] Name and TIN of common parent:

Name: _____

TIN: _____

(FAR 52.204-3)

K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)

(a) (1) The offeror certifies, to the best of its knowledge and belief, that--

(i) The offeror and/or any of its principals--

(A) Are [], are not [] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [] have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are [], are not [] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The offeror has [], has not [], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the offeror's responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)

K96 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 --

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of

Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure. (FAR 52.203-11)

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERS OR QUOTERS

L1 STATEMENT AS TO AWARD (SERVICES) (DESC NOV 1990)

Award will not be made on less than the service stated as the first program year requirements. (Program year is the first year of the contract beginning with the service start date.) (DESC 52.211-9F25)

L1.02 PROPOSAL ACCEPTANCE PERIOD (DESC NOV 1991)

(a) **Acceptance period**, as used in this provision, means the number of calendar days available to the Government for awarding a contract from the date specified in this solicitation for receipt of proposals.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of 60 calendar days.

(d) If the offeror specifies an acceptance period which is less than that required by the Government, such offer may be rejected.

(e) The offeror agrees to execute all that it has undertaken to do, in compliance with its offer, if such offer is acceptable to the Government and is accepted within the acceptance period stated in (c) above or within any extension thereof that has been agreed to by the offeror. (DESC 52.215-9FB1)

L2.01 INSTRUCTIONS TO OFFERORS (RFP) (DESC OCT 1981)

Offerors are expected to examine all sections of the solicitation and the Information to Offerors form. Failure to do so will be at offeror's risk. Each offeror shall furnish the information required by the solicitation. Offers and modifications thereto shall be signed and dated. The name and title of the person authorized to sign the offer is to be printed or typed on the offer. The offer shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. Erasures or other changes must be initialed by the person signing the offer. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope. (DESC 52.215-9F45)

L2.05-8 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (ALT I) (OCT 1997)

(a) **DEFINITIONS.** As used in this provision--

(1) **Discussions** are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

(2) **In writing** or **written** means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

(3) **Proposal modification** is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award. Proposal revision is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

(4) **Time**, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturday, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) **SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF PROPOSALS.**

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals, and modifications to proposals shall be submitted in paper media in sealed envelopes or packages—

(i) Addressed to the office specified in the solicitation; and

(ii) Showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the prices set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic address if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) **LATE PROPOSALS AND REVISIONS.**

(i) Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and--

(A) It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(B) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(C) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term **working days** excludes weekends and U.S. Federal holidays;

(D) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals;

(E) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or

(F) It is the only proposal received.

(ii) Any modification or revision of a proposal or response to request for information, including any final proposal revision, is subject to the same conditions as in subparagraphs (c)(3)(i)(A) through (c)(3)(i)(E) of this provision.

(iii) The only acceptable evidence to establish the date of mailing of a late proposal or modification or revision sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, response to a request for information, or modification or revision shall be processed as if mailed late. **Postmark** means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offeror or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(iv) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(v) The only acceptable evidence to establish the date of mailing of a late offer, modification or revision, or withdrawal sent by Express mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. **Postmark** has the same meaning as defined in paragraph (c)(3)(iii) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(vi) Notwithstanding paragraph (c)(3)(i) of this provision, a late modification or revision of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(vii) Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the FACSIMILE PROPOSALS provision. Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

(viii) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Proposals submitted in response to this solicitation shall be in English and in U.S. dollars unless otherwise permitted by the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) **OFFER EXPIRATION DATE.** Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet.

(e) **RESTRICTION ON DISCLOSURE AND USE OF DATA.** Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: THIS PROPOSAL INCLUDES DATA THAT SHALL NOT BE DISCLOSED OUTSIDE THE GOVERNMENT AND SHALL NOT BE DUPLICATED, USED, OR DISCLOSED -- IN WHOLE OR IN PART -- FOR ANY PURPOSE OTHER THAN TO EVALUATE THIS PROPOSAL. IF, HOWEVER, A CONTRACT IS AWARDED TO THIS OFFEROR AS A RESULT OF -- OR IN CONNECTION WITH -- THE SUBMISSION OF THIS DATA, THE GOVERNMENT SHALL HAVE THE RIGHT TO DUPLICATE, USE, OR DISCLOSE THE DATA TO THE EXTENT PROVIDED IN THE RESULTING CONTRACT. THIS RESTRICTION DOES NOT LIMIT THE GOVERNMENT'S RIGHT TO USE INFORMATION CONTAINED IN THIS DATA IF IT IS OBTAINED FROM ANOTHER SOURCE WITHOUT RESTRICTION. THE DATA SUBJECT TO THIS RESTRICTION ARE CONTAINED IN SHEETS (INSERT NUMBERS OR OTHER IDENTIFICATION OF SHEETS); and

(2) Mark each sheet of data it wishes to restrict with the following legend: USE OR DISCLOSURE OF DATA CONTAINED ON THIS SHEET IS SUBJECT TO THE RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL.

(f) **CONTRACT AWARD.**

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in postaward debriefings to other offerors:

- (i) The overall evaluated cost or price and technical rating of the successful offeror;
- (ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;
- (iii) A summary of the rationale for award; and
- (iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(FAR 52.215-1/Alt I)

L2.21 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in this solicitation of any DOD FAR Supplement Regulation (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation. (FAR 52.252-5)

L5 SERVICE OF PROTEST (AUG 1996)

(a) **Protests**, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from--

ATTN: **DESC-CPA**
 DEFENSE ENERGY SUPPORT CENTER
 8725 JOHN J KINGMAN ROAD SUITE 4950
 FORT BELVOIR VA 22060-6222

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with GAO. (FAR 52.233-2)

L5.01 AGENCY PROTESTS (DESC AUG 1997) - DLAD

(a) Parties protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order 12979, with the DESC Commodity Business Unit Director.

(b) Protests filed with the Director, DESC Commodity Business Unit, pursuant to Executive Order 12979 should be addressed to the Contracting Officer, but should clearly state that they are an "Agency Level Protest under Executive Order 12979." The Contracting Officer will forward the protest to the DESC Director of the appropriate commodity business unit for a decision. (This process allows for a higher level decision on the initial protest; it is not a review of a Contracting Officer's decision on a protest filed with the Contracting Officer.)

(c) Absent a clear indication of the intent to file an agency level protest under Executive Order 12979, protests will be presumed to be protests to the Contracting Officer.

(d) To the maximum extent possible, all parties shall use their best efforts to resolve concerns at the Contracting Officer level through frank and open discussions. (DLAD 52.233-9000, **revised**)

L11 POSTPONEMENT OF OPENING/CLOSING OF OFFERS (OCT 1982) DLAD

If the opening/closing of offers is postponed because emergency or unanticipated events (such as, but not limited to, flood, fire, accident, weather condition, or strikes) result in closing the designated site for opening/closing of offers, so that the conduct of openings/closings as scheduled is impracticable, offers or modifications or withdrawal of offers received prior to the time of actual opening/closing will be considered as timely. Offers or modifications or withdrawals of offers received after the time of actual opening/closing of offers, when opening/closing of offers was postponed as provided above, will not be considered except as provided in FAR 52.214-7 or 52.215-10, as applicable. (DLAD 52.214-9000)

L17 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (AUG 1998)

(a) Copies of specifications, standards and data item descriptions cited in this solicitation may be obtained for a fee by submitting a request to the--

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DODSSP)
BUILDING 4 SECTION D
700 ROBBINS AVENUE
PHILADELPHIA PA 19111-5094

Telephone: (215) 697-2667/2179
Facsimile: (215) 697-1462.

- (b) Order forms, pricing information, and customer support information may be obtained--
- (1) By telephone at (215) 697-2667/2179; or
 - (2) Through the DoDSSP Internet site at <http://www.dodssp.daps.mil>. (FAR 52.211-2)

L18 PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999)

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246. (FAR 52.222-24)

L23 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., the VETS-100 report required by FAR clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d). (DFARS 252.209-7003)

L54.01 SITE VISIT (APR 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award. (FAR 52.237-1)

L70 TECHNICAL QUESTIONS (DESC OCT 1995)

Offerors are encouraged to submit all technical questions concerning this solicitation in writing to the Contracting Officer at the address in block 7 of the Standard Form 33 at least 14 calendar days prior to the scheduled pre-proposal conferences. Letters may be submitted by facsimile to 703-767-8506. DESC will answer those questions and any others arising during the conferences in an amendment to the solicitation. NOTE: The name(s) of the firm(s) submitting questions will not be disclosed. (DESC 52.211-9F05)

L74 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm fixed price contract resulting from this solicitation.
(FAR 52.216-1)

L82 WAGE DETERMINATION (DESC JAN 1986)

This procurement is subject to Wage Determination Number 94-2241 (Rev. 17) dated August 17, 1999 as determined by the Administrator, Wage and Hour Public Contracts Division, U.S. Department of Labor. Register of Wage Determination and Fringe Benefits under the McNamara-O'Hara Service Contract Act is attached and made a part of this solicitation. (DESC 52.222-9F10)

L96 ADMINISTRATION OF THE SMALL BUSINESS SUBCONTRACTING PROGRAM (DESC FEB 1999)

The SMALL BUSINESS SUBCONTRACTING PLAN clause contained in any contract awarded under this solicitation will be administered by the cognizant Defense Contract Management District. (DESC 52.242-9F15)

L198 PREPROPOSAL CONFERENCE (ENVIRONMENTAL) (DESC OCT 1992)

A pre-proposal conference, in conjunction with a site visit, will be held to provide offerors an opportunity to be briefed on the work covered by the solicitation. Attendance at the conference is strongly encouraged. A security clearance is not required for attendance. Any comments/remarks made by Government representatives at the conference should not be construed as a change. Any changes in terms or conditions must be accomplished by a written amendment to the solicitation. Offerors are requested to provide DESC-FPA by e-mail or facsimile the name(s) of the individual(s) who plan to attend. The conference date and time is as set forth below: **NOTE: Casual attire is encouraged.**

<u>DATE</u>	<u>SITE</u>	<u>TIME</u>
16 March 2000	Firehouse (adjacent to DFSP Casco Bay)	10:30
		(DESC 52.215-9F25)

L201.01.100 SPECIFIC INSTRUCTIONS FOR PREPARING OFFERS (ENVIRONMENTAL) (DESC DEC 1999)

Offeror shall submit an original and one copy of their proposal, divided into the following clearly labeled five parts:

1. **OFFEROR SUBMISSION PACKAGE:** Complete all required representations and certifications, and provide proposed prices in Clause B35. Clause B35 should be submitted on the disk provided at the preproposal conference and printed out in hard copy as part of the Offeror submission package. Prices proposed must be based on descriptions of tasks as stated in the Statement of Work.
2. **TECHNICAL PROPOSAL:** Technical proposal shall be complete enough to demonstrate the Offeror's understanding of the requirements and associated problems. Statements such as the "Offeror will comply", "standard procedures will be employed", or "well known techniques will be used" are inadequate. If sufficient information is not submitted, proposals may be considered technically unacceptable, which will exclude the proposal from further consideration. Information must be presented in a way that will enable cross-referencing to this Clause.
 - a. For the following CLINs, Offeror must provide the *supplemental information* described below:
 - (1) *Proposed sediment and shellfish sampling protocols* that comply with requirements for the State of Maine as required by CLIN 5. Explain any *assumptions* that have been made in arriving at the proposed cost.
 - (2) For CLIN 6, Sample Testing, the *standard turnaround time* to obtain analytical result, *surcharge* to be added to proposed prices for expedited turnaround, and the *expedited turnaround time*.
 - (3) For CLIN 11, Miscellaneous Services. When authorized by the Contracting Officer, the contractor shall provide environmental response, assessment, and remediation services not specified in the Statement of Work. The Government reserves the right to accomplish this work with its' own forces or by other contracts when the Contracting Officer determines that it is in the best interest of the Government. Reimbursement for work accomplished under CLIN 11 shall be for the prime contractor and any sub-contractor for allowable, allocable, and reasonable direct costs pursuant to FAR Section 31. Any associated indirect costs related to the performance of work under CLIN 11 and allowable under the provisions of FAR Section 31, shall be included in the unit costs proposed for work items under CLIN 0011. Miscellaneous Services may include, but are not limited to: disposal of hazardous soil or water off site, attending meetings with regulatory agencies, obtaining permits and licenses (e.g. for well/borehole installations (if deemed necessary), for discharge of water, disposal of wastes, etc.), public liaison, and various maintenance activities necessary to insure the safety and security of the facilities on which assessment and remediation could possibly be performed (although unlikely).

(4) For ALL CLINs, *details of assumptions* made by the Offeror. NOTE: Prices proposed in Clause B35, SERVICES TO BE FURNISHED AND PRICES (DESC FEB 1992) must be based on descriptions of tasks as stated in the Statement of Work.

b. ***Previous cleanup experience and capabilities*** of the Offeror. Provide in tabular form a listing of **completed remediation and closure projects** performed by the Offeror. Experience must be related to petroleum and have taken place within the past 15 years. Remediations which consist only of removal of contaminated soil to a landfill, free product recovery wells or trenches, or pilot tests are not considered qualifying experience. Provide a phone number and point of contact of the client for which the work was performed. **Provide a copy of the closure letters or equivalent as proof of closure.**

c. Furnish a ***resume for the individual(s) who will be Project Manager(s)*** for any contract resulting from this solicitation. For petroleum remediation work experience, remediations which consist only of removal of contaminated soil to a landfill, free product recovery wells or trenches, or pilot tests are not considered qualifying experience. **Include experience resulting in site closures.**

d. Furnish ***evidence or certification that the proposed field technician performing well sampling is certified in the low flow well development technique*** required by the State of Maine

e. Provide the ***trade or discipline, names and addresses of firms the Offeror would anticipate using as subcontractors*** on contracts resulting from this solicitation due to the Offeror not having the required capability in-house.

f. Provide a ***detailed breakdown of the level of effort needed to review existing environmental reports and data*** for the site. Copies of this data are available for review at either the Defense Energy Support Center Fort Belvoir office. Description of the level of effort shall include all labor, equipment and material contractor anticipates using to accomplish the work. The submittal shall be in tabular form showing category of effort and number of hours.

3. PAST PERFORMANCE. The offeror must provide the ***following information*** for the **three most recent contracts and subcontracts held, to include those in progress, that are most related to the proposed contract.**

- a. Name and address of contracting activity;
- b. Points of contact (names of Contracting Officer, Contracting Officer's Representative, Administrative Contracting Officer program manager, etc., as applicable) and phone numbers of activity personnel;
- c. Contract number;
- d. Contract type and dollar value;
- e. Brief description of the work;
- f. Information on any significant problems encountered and corrective actions taken; and
- f. A listing of subcontractors used for reference contracts/subcontracts with their designation as large business, small business, small disadvantaged business, or women-owned small business.

4. SOCIOECONOMIC PLAN. The offeror must provide the ***following***:

- a. A ***description of its efforts*** to ensure that small, small disadvantaged, and women-owned small business concerns will have an equal opportunity to compete for subcontracts under any resultant contract. The description should include the offeror's proposed range of services, supplies, and any other support that will be provided to the offeror by small, small disadvantaged, and women-owned small business concerns. Specific names of any known subcontractors should be included.
- b. A ***description of any future plans*** the offeror has for developing additional subcontracting opportunities for small, small disadvantaged, and women-owned small business concerns during the contract period.
- c. The ***proportion of the offeror's proposal, as a percentage of dollars, that will be subcontracted*** to small, small disadvantaged, and women-owned small businesses.
- d. The ***type of performance data*** regarding its support of small, small disadvantaged, and women-owned small businesses that will be accumulated by the offeror during contract performance. The ***extent to which this performance data is used*** in source selection decisions. The offeror shall also provide the name and title of the individual principally responsible for ensuring company support to such firms.

5. CONTRACTOR'S ACCOUNTING SYSTEM. In accordance with Clause G17.01, ***provide written disclosure of the cost accounting system and practices*** for this contract which shall identify and record site specific costs on a site specific basis and by contract task order and line item. Site specific cost documentation for each contract task order must be readily retrievable and sufficiently identifiable to enable cross referencing with payment vouchers. The foregoing is in addition to and/or complimentary to other Cost Accounting Standards clauses in this contract.

L203 HANDCARRIED OFFERS AND EXPRESS DELIVERY SERVICE (DESC JAN 1998)

(a) Any handcarried offer must be received at the depository indicated on the Standard Form (SF) 33 or SF 1449 of this solicitation by the date and time specified for receipt of offers. Evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the solicitation wrapper or other documentary evidence of receipt maintained by the installation.

(b) Offers delivered by an express delivery service will be considered "handcarried." Therefore, bidders/offerors that respond to this solicitation using an express delivery service must ensure that the express delivery service "handcarries" the offer to the depository indicated on the SF 33 or SF 1449.

(c) The term **express delivery service** does not include Express Mail delivered by the United States Postal Service. Express Mail will be considered "mail" under the LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS provision or the Late Offers paragraph of the INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS or INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITIONS provision. (DESC 52.252-9F05)

L205 COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (AUG 1999)

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code must be for that name and address. Enter **CAGE** before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will--

(1) Ask the Contractor to complete Section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code. (DFARS 252.204-7001)

L603 EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES (FEB 1993)

(a) Recompetition of service contracts may in some cases result in lowering the compensation (salaries and fringe benefits) paid or furnished professional employees. This lowering can be detrimental in obtaining the quality of professional services needed for adequate contract performance. It is therefore in the Government's best interest that professional employees, as defined in 29 CFR 541, be properly and fairly compensated. As a part of their proposals, offerors will submit a total compensation plan setting forth salaries and fringe benefits proposed for the professional employees who will work under the contract. The Government will evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements. This evaluation will include an assessment of the offeror's ability to provide uninterrupted high-quality work. The professional compensation proposed will be considered in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public, and private organizations, used in establishing the total compensation structure.

(b) The compensation levels proposed should reflect a clear understanding of work to be performed and should indicate the capability of the proposed compensation structure to obtain and keep suitably qualified personnel to meet mission objectives. The salary rates or ranges must take into account differences in skills, the complexity of various disciplines, and professional job difficulty. Additionally, proposals envisioning compensation levels lower than those of predecessor contractors for the same work will be evaluated on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees. Offerors are cautioned that lowered compensation for essentially the same professional work may indicate lack of sound management judgment and lack of understanding of the requirement.

(c) The Government is concerned with the quality and stability of the work force to be employed on this contract. Professional compensation that is unrealistically low or not in reasonable relationship to the various job categories, since it may impair the Contractor's ability to attract and retain competent professional service employees, may be viewed as evidence of failure to comprehend the complexity of the contract requirements.

(d) Failure to comply with these provisions may constitute sufficient cause to justify rejection of a proposal.

(FAR 52.222-46)

SECTION M – EVALUATION FACTORS FOR AWARD

M2.03-1 SOCIOECONOMIC EVALUATION (OCT 1996) - DLAD

The Socioeconomic Proposal provided by the offeror under 52.215-9002 will be evaluated on a comparative basis among all offerors. An offeror that proposes a higher percentage, complexity level, and variety of participation by small, small disadvantaged and women-owned small businesses combined, generally will receive a higher rating on this factor. An offeror's efforts to develop additional opportunities for small, small disadvantaged and women-owned small businesses will also be comparatively evaluated with the proposals of other offerors. Offerors' proposals for socioeconomic support will be made a part of any resulting contract for use in determining how well the Contractor has adhered to its socioeconomic plan. This plan will be monitored by the cognizant Defense Contract Management Command's small business office as a means of assisting the Contracting Officer in determining how well the Contractor has in fact performed. This determination will then be used as a consideration prior to option exercise and future source selection decisions. Performance on prior contracts in subcontracting with and assisting small, small disadvantaged, and women-owned small businesses will be part of past performance evaluation. (DLAD 52.215-9003)

M28.04.100 BASIS FOR AWARD (ENVIRONMENTAL) (DESC DEC 1999)

(a) Award of any contract resulting from this solicitation shall be made using source selection procedures. Proposals submitted in response to the solicitation will be evaluated by a team of Government personnel, and the final selection will be made by the Source Selection Authority.

(b) Proposals will be evaluated using the following factors, listed in descending order of importance:

(1) Technical/Management: Within this factor, the following four sub-factors are the highest ranked, and each are of equal importance:

- (i) Technical merit and general responsiveness of the proposal;
- (ii) Petroleum remediation experience of the Offeror;
- (iii) Petroleum remediation experience of the Offeror's Project Manager;
- (iv) Capability and certification of the well sampling technician;

The remaining two sub-factors are listed in descending order of importance:

- (v) Contractor initiatives to reduce costs;
- (vi) In-house capability.

(2) Past Performance: This factor will be evaluated using information from references provided by the contractor under Clause L201.01.100. The Government reserves the right to consider any additional information on the offeror obtained through other means.

(3) Price: This factor will be evaluated by multiplying the proposed prices in Clause B35 by the estimated number of units shown in the following schedule for the respective line items. The Government reserves the right to award to other than the lowest evaluated price.

NOTE: The estimates provided below are for evaluation purposes only and do not represent any guarantee on the Government's part to order the quantities listed.

<u>CLIN</u>	<u>Services</u>	<u>Qty</u>
0001A	Work Plan Unit	4
0001B	Work Plan Excess Hours	60
0002A	Boring up to 5 feet	4
0002B	Feet of Boring 6 to 20 feet	60
0002C	Soil Borings Mobilization	1
0003A	Price Per Unit of DPT	1
0003B	Mobilization for DPT	1
0004A	2" Monitoring Well up to 10 feet	5
0004B	2" Monitoring Well 11 to 20 feet	50
0004C	4" Monitoring Well up to 10 feet	2
0004D	4" Monitoring Well 11 to 20 feet	20
004AE	Monitoring Wells Mobilization	2

0005A	Ocean Sediment Samples	5
0005B	Beach Sediment Samples	5
0005C	Shellfish Samples	5
0005D	Shellfish Sampling Mobilization	2
0006A	Total Fuel Oil (MEDEP 4.1.25)	120
0006B	8015	1
0006C	8021B	120
0006D	8260	10
0006E	8260 (Modified)	15
0006F	8270 (SW-846PAH)	30
0006G	TCLP Metals	20
0006H	9045	1
0006I	1010/1020	1
0006J	Bioassay (Toxicity)	5
0006K	Major Anions and Cations	18
0006L	Nitrate (Bioindicator)	64
0006M	Sulfate (Bioindicator)	64
0006N	Dissolved Iron (Bioindicator)	64
0006O	Dissolved Manganese (Bioindicator)	64
0006P	Filters for Dissolved Metals	84
0006Q	Methane (Bioindicator)	64
0006R	pH, Temp and Conductivity Meter	6
0006S	Chloride (Bioindicator Tracer)	64
0006T	In-Line Flow Meter Cells	4
0006U	Peristaltic Pumps	40
0006V	Phenolic Compounds (Chlorinated)	40
0006W	Oil & Grease	1
0006X	Soil Properties Testing API RP40	1
0006Y	Grain Size ASTM D4464	1
0006Z	Hydraulic Conductivity ASTM 2434/5084	1
0007	Well Location Surveying Units	1
0008	Pump Tests	1
0009A	Risk Analysis	1
0009B	Excess Hours for Risk Analysis	120
0010A	Reports	2
0010B	Excess Hours for Report Preparation	30
0011A	Project Manager (Price Per Hour)	30
0011B	Engineer I (Price Per Hour)	40
0011C	Engineer II (Price Per Hour)	7
0011D	Engineer III (Price Per Hour)	5
0011E	Chemist (Price Per Hour)	160
0011F	Environmental Scientist I (Price Per Hour)	25
0011G	Environmental Scientist II (Price Per Hour)	7
0011H	Environmental Scientist III (Price Per Hour)	7
0011I	Geologist I (Price Per Hour)	60
0011J	Geologist II (Price Per Hour)	30
0011K	Geologist III (Price Per Hour)	7
0011L	Hydrogeologist I (Price Per Hour)	30
0011M	Hydrogeologist II (Price Per Hour)	7

0011N	Hydrogeologist III (Price Per Hour)	7
0011O	Toxicologist I (Price Per Hour)	20
0011P	Toxicologist II (Price Per Hour)	20
0011Q	Toxicologist III (Price Per Hour)	7
0011R	Drafter (Price Per Hour)	7
0011S	Cost Accountant (Price Per Hour)	15
0011T	Secretary (Price Per Hour)	80
0011U	Site Labor Foreman (Price Per Hour)	7
0011V	Heavy Equipment Operator (Price Per Hour)	40
0011X	Laborer (Price Per Hour)	40
0011Y	Engineering Technician (Price Per Hour)	160
0011Z	Equipment Operator (Price Per Hour)	40
0011AA	Utility Truck (Price Per Day)	7
0011AB	02/Explosimeter (Price Per Day)	7
0011AC	Sampling Pump (Price Per Day)	1
0011AD	Flame Ionization OVA (Price Per Day)	7
0011AE	Air Velocity Meter (Price Per Day)	7
0011AF	Shipping of Soil & Water Samples for Analytical Testing (Price Per Day)	10
0011AG	251b Shipping Container	70
0011AH	Disposable Bailers	60
0011AI	Tedlar Bags (Price Per Dozen)	10
0011AJ	Pick-up Truck ½ Ton (Price Per Day)	7
0011AK	1 CY Backhoe Loader (Price Per Day)	4
0011AL	1 ½ CY Hydraulic Excavation (Price Per Day)	5
0011AM	Drill Rig (Price Per Day)	5
0011AN	Dewatering Pump (150 GPM) (Price Per Day)	5
0011AO	Air Compressor (7cfm) (Price Per Day)	7
0011AP	Generator (4000 watt) (Price Per Day)	5
0011AQ	CAD Equipment Use Charge (Price Per Day)	5
0011AR	Photoionization Detector (Price Per Day)	5
0011AS	Oil/Water Interface Probe (Price Per Day)	10
0012	Mark-up for Overhead and Profit (Proposed percentage in Clause B35 will be multiplied by this estimate of cost reimbursable items)	\$100,000.00
0013	Lump Sum Payment for Background Review	1

(DESC 52.209-9F35)

4) Socioeconomic Plan: This factor will be evaluated on a comparative basis among all offerors. An Offeror that proposes a higher percentage, complexity level, and variety of participation by small, small disadvantaged and women-owned small businesses combined, generally will receive a higher rating on this factor. An Offeror's efforts to develop additional opportunities for small, small disadvantaged and women-owned small businesses will also be comparatively evaluated with the proposals of other offerors. Offeror's proposals for socioeconomic support will be made part of any resulting contract for use in determining how well the Contractor has adhered to its socioeconomic plan. This plan will be monitored as a means of assisting the Contracting Officer in determining how well the Contractor has in fact performed. This determination will then be used as a consideration prior to future source selection decisions.

M72 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 1997)

- (a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.
- (b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination

that either--

- (1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or
- (2) The exception/deviation is acceptable.

(c) If the exception/deviation is in reference to a specification contained in this solicitation and the offeror cannot supply product fully meeting the required specification(s), the product can be offered for consideration provided the offeror clearly indicates, by attachment to the offer, the extent to which any product offered differs from the required specification(s).

(d) If the exception/deviation is in reference to a particular test, inspection, or testing method contained in this solicitation, the offer can be considered provided the offeror clearly indicates, by attachment to the offer, the extent to which its offer differs from those requirements.

(e) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

(DESC 52.209-9F45)

ATTACHMENT 1
SP0600-00-R-0036

WAGE
DETERMINATION

[\[HOME\]](#) [\[SEARCH\]](#) [\[PREV LIST\]](#) [\[CURR LIST\]](#) [\[NEXT LIST\]](#) [\[FIRST DOC\]](#) [\[PREV DOC\]](#) [\[CURR DOC\]](#) [\[NEXT DOC\]](#) [\[LAST DOC\]](#) [\[BOTTOM\]](#) [hit+](#) [\[HELP\]](#)

WAGE DETERMINATION NO: 94-2241 REV (17) AREA: ME,STATEWIDE

WAGE DETERMINATION NO: [-hithit+94-2241](#) REV (17) AREA: ME,STATEWIDE

FOR OFFICIAL USE ONLY BY FEDERAL AGENCIES PARTICIPATING IN MOU WITH DOL

REGISTER OF WAGE DETERMINATION UNDER

THE SERVICE CONTRACT ACT

By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

WAGE AND HOUR DIVISION

Washington, D.C. 20210

Wage Determination No.: [-hithit+94-2241](#)

Division of Wage Determinations | Date of Last Revision: 08/17/1999

State): Maine

Areas: Maine ALL COUNTIES

**** Fringe Benefits Required For All Occupations Included In**

This Wage Determination Follow The Occupational Listing **

OCCUPATION CODE AND TITLE

MINIMUM HOURLY WAGE

Administrative Support and Clerical Occupations:

01011 Accounting Clerk I	\$ 6.89
01012 Accounting Clerk II	\$ 8.29
01013 Accounting Clerk III	\$ 9.95
01014 Accounting Clerk IV	\$ 11.88
01030 Court Reporter	\$ 10.83
01050 Dispatcher, Motor Vehicle	\$ 10.83
01060 Document Preparation Clerk	\$ 9.43
01070 Messenger (Courier)	\$ 6.17
01090 Duplicating Machine Operator	\$ 9.43
01110 Film/Tape Librarian	\$ 9.72
01115 General Clerk I	\$ 6.53
01116 General Clerk II	\$ 7.40
01117 General Clerk III	\$ 9.43
01118 General Clerk IV	\$ 10.33
01120 Housing Referral Assistant	\$ 11.90
01131 Key Entry Operator I	\$ 7.73
01132 Key Entry Operator II	\$ 9.72
01191 Order Clerk I	\$ 8.05
01192 Order Clerk II	\$ 10.48
01261 Personnel Assistant (Employment) I	\$ 8.65
01262 Personnel Assistant (Employment) II	\$ 9.72
01263 Personnel Assistant (Employment) III	\$ 10.83
01264 Personnel Assistant (Employment) IV	\$ 11.90
01270 Production Control Clerk	\$ 11.90
01290 Rental Clerk	\$ 9.72
01300 Scheduler, Maintenance	\$ 9.72
01311 Secretary I	\$ 9.72
01312 Secretary II	\$ 10.83
01313 Secretary III	\$ 11.90
01314 Secretary IV	\$ 14.68
01315 Secretary V	\$ 15.61
01320 Service Order Dispatcher	\$ 9.22
01341 Stenographer I	\$ 8.65
01342 Stenographer II	\$ 10.17
01400 Supply Technician	\$ 14.68
01420 Survey Worker (Interviewer)	\$ 10.83

01460 Switchboard Operator-Receptionist	\$ 8.30
01510 Test Examiner	\$ 10.83
01520 Test Proctor	\$ 10.83
01531 Travel Clerk I	\$ 8.63
01532 Travel Clerk II	\$ 9.41
01533 Travel Clerk III	\$ 10.20
01611 Word Processor I	\$ 8.77
01612 Word Processor II	\$ 11.29
01613 Word Processor III	\$ 12.53
Automatic Data Processing Occupations:	
03010 Computer Data Librarian	\$ 9.42
03041 Computer Operator I	\$ 9.42
03042 Computer Operator II	\$ 12.67
03043 Computer Operator III	\$ 14.12
03044 Computer Operator IV	\$ 15.69
03045 Computer Operator V	\$ 17.39
03071 Computer Programmer I	\$ 11.67
03072 Computer Programmer II 1/	\$ 14.45
03073 Computer Programmer III 1/	\$ 17.30
03074 Computer Programmer IV 1/	\$ 20.73
03101 Computer Systems Analyst I 1/	\$ 18.74
03102 Computer Systems Analyst II 1/	\$ 22.66
03103 Computer Systems Analyst III 1/	\$ 26.02
03160 Peripheral Equipment Operator	\$ 9.42
Automotive Service Occupations:	
05005 Automobile Body Repairer, Fiberglass	\$ 13.73
05010 Automotive Glass Installer	\$ 12.76
05040 Automotive Worker	\$ 12.76
05070 Electrician, Automotive	\$ 13.67
05100 Mobile Equipment Servicer	\$ 11.67
05130 Motor Equipment Metal Mechanic	\$ 13.73
05160 Motor Equipment Metal Worker	\$ 12.76
05190 Motor Vehicle Mechanic	\$ 13.73
05220 Motor Vehicle Mechanic Helper	\$ 11.09
05250 Motor Vehicle Upholstery Worker	\$ 12.22
05280 Motor Vehicle Wrecker	\$ 12.76
05310 Painter, Automotive	\$ 13.24
05340 Radiator Repair Specialist	\$ 12.76
05370 Tire Repairer	\$ 11.67
05400 Transmission Repair Specialist	\$ 13.73
Food Preparation and Service Occupations:	
07010 Baker	\$ 10.66
07041 Cook I	\$ 9.75
07042 Cook II	\$ 10.66
07070 Dishwasher	\$ 7.47
07100 Food Service Worker (Cafeteria Worker)	\$ 7.47
07130 Meat Cutter	\$ 10.66
07250 Waiter/Waitress	\$ 8.10
Furniture Maintenance and Repair Occupations:	
09010 Electrostatic Spray Painter	\$ 14.08
09040 Furniture Handler	\$ 10.80
09070 Furniture Refinisher	\$ 14.08
09100 Furniture Refinisher Helper	\$ 12.00
09110 Furniture Repairer, Minor	\$ 13.13
09130 Upholsterer	\$ 14.08
General Service and Support Occupations:	
11030 Cleaner, Vehicles	\$ 7.47
11060 Elevator Operator	\$ 7.47
11090 Gardener	\$ 9.75
11121 Housekeeping Aide I	\$ 6.79
11122 Housekeeping Aide II	\$ 7.47
11150 Janitor	\$ 7.47
11210 Laborer, Grounds Maintenance	\$ 8.10
11240 Maid or Houseman	\$ 6.79

11270 Pest Controller	\$ 10.21
11300 Refuse Collector	\$ 7.47
11330 Tractor Operator	\$ 8.53
11360 Window Cleaner	\$ 8.10
Health Occupations:	
12020 Dental Assistant	\$ 10.09
12040 Emergency Medical Technician/Paramedic Ambulance Driver	\$ 10.09
12071 Licensed Practical Nurse I	\$ 8.03
12072 Licensed Practical Nurse II	\$ 9.02
12073 Licensed Practical Nurse III	\$ 10.09
12100 Medical Assistant	\$ 9.02
12130 Medical Laboratory Technician	\$ 9.02
12160 Medical Record Clerk	\$ 9.02
12190 Medical Record Technician	\$ 12.49
12221 Nursing Assistant I	\$ 6.55
12222 Nursing Assistant II	\$ 7.36
12223 Nursing Assistant III	\$ 8.03
12224 Nursing Assistant IV	\$ 9.02
12250 Pharmacy Technician	\$ 11.24
12280 Phlebotomist	\$ 9.02
12311 Registered Nurse I	\$ 12.49
12312 Registered Nurse II	\$ 15.28
12313 Registered Nurse II, Specialist	\$ 15.28
12314 Registered Nurse III	\$ 18.49
12315 Registered Nurse III, Anesthetist	\$ 18.49
12316 Registered Nurse IV	\$ 22.16
Information and Arts Occupations:	
13002 Audiovisual Librarian	\$ 14.68
13011 Exhibits Specialist I	\$ 14.15
13012 Exhibits Specialist II	\$ 17.52
13013 Exhibits Specialist III	\$ 21.69
13041 Illustrator I	\$ 14.15
13042 Illustrator II	\$ 17.52
13043 Illustrator III	\$ 21.45
13047 Librarian	\$ 14.49
13050 Library Technician	\$ 11.15
13071 Photographer I	\$ 10.30
13072 Photographer II	\$ 14.15
13073 Photographer III	\$ 17.52
13074 Photographer IV	\$ 21.45
13075 Photographer V	\$ 25.94
Laundry, Drycleaning, Pressing and Related Occups:	
15010 Assembler	\$ 6.56
15030 Counter Attendant	\$ 6.56
15040 Dry Cleaner	\$ 7.97
15070 Finisher, Flatwork, Machine	\$ 6.56
15090 Presser, Hand	\$ 6.56
15100 Presser, Machine, Drycleaning	\$ 6.56
15130 Presser, Machine, Shirts	\$ 6.56
15160 Presser, Machine, Wearing Apparel, Laundry	\$ 6.56
15190 Sewing Machine Operator	\$ 8.42
15220 Tailor	\$ 8.87
15250 Washer, Machine	\$ 7.04
Machine Tool Operation and Repair Occupations:	
19010 Machine-Tool Operator (Toolroom)	\$ 14.08
19040 Tool and Die Maker	\$ 17.47
Materials Handling and Packing Occupations:	
21010 Fuel Distribution System Operator	\$ 13.26
21020 Material Coordinator	\$ 11.67
21030 Material Expediter	\$ 11.67
21040 Material Handling Laborer	\$ 8.94
21050 Order Filler	\$ 7.80
21071 Forklift Operator	\$ 11.09
21080 Production Line Worker (Food Processing)	\$ 11.24

21100 Shipping/Receiving Clerk	\$ 10.38
21130 Shipping Packer	\$ 10.38
21140 Store Worker I	\$ 9.06
21150 Stock Clerk (Shelf Stocker; Store Worker II)	\$ 10.97
21210 Tools and Parts Attendant	\$ 11.09
21400 Warehouse Specialist	\$ 12.12
Mechanics and Maintenance and Repair Occupations:	
23010 Aircraft Mechanic	\$ 14.69
23040 Aircraft Mechanic Helper	\$ 12.00
23050 Aircraft Quality Control Inspector	\$ 16.48
23060 Aircraft Servicer	\$ 13.13
23070 Aircraft Worker	\$ 13.68
23100 Appliance Mechanic	\$ 14.08
23120 Bicycle Repairer	\$ 12.57
23125 Cable Splicer	\$ 14.69
23130 Carpenter, Maintenance	\$ 14.08
23140 Carpet Layer	\$ 13.68
23160 Electrician, Maintenance	\$ 15.32
23181 Electronics Technician, Maintenance I	\$ 12.48
23182 Electronics Technician, Maintenance II	\$ 15.26
23183 Electronics Technician, Maintenance III	\$ 17.59
23260 Fabric Worker	\$ 13.13
23290 Fire Alarm System Mechanic	\$ 14.69
23310 Fire Extinguisher Repairer	\$ 12.57
23340 Fuel Distribution System Mechanic	\$ 14.69
23370 General Maintenance Worker	\$ 13.68
23400 Heating, Refrigeration and Air-Conditioning Mechanic	\$ 14.69
23430 Heavy Equipment Mechanic	\$ 14.69
23440 Heavy Equipment Operator	\$ 14.69
23460 Instrument Mechanic	\$ 14.69
23470 Laborer	\$ 10.14
23500 Locksmith	\$ 14.08
23530 Machinery Maintenance Mechanic	\$ 14.40
23550 Machinist, Maintenance	\$ 14.08
23580 Maintenance Trades Helper	\$ 12.00
23640 Millwright	\$ 14.69
23700 Office Appliance Repairer	\$ 14.08
23740 Painter, Aircraft	\$ 14.08
23760 Painter, Maintenance	\$ 14.08
23790 Pipefitter, Maintenance	\$ 15.95
23800 Plumber, Maintenance	\$ 14.08
23820 Pneudraulic Systems Mechanic	\$ 14.69
23850 Rigger	\$ 14.69
23870 Scale Mechanic	\$ 13.68
23890 Sheet-Metal Worker, Maintenance	\$ 14.69
23910 Small Engine Mechanic	\$ 13.68
23930 Telecommunications Mechanic I	\$ 14.69
23931 Telecommunications Mechanic II	\$ 16.48
23950 Telephone Lineman	\$ 14.69
23960 Welder, Combination, Maintenance	\$ 14.69
23965 Well Driller	\$ 14.69
23970 Woodcraft Worker	\$ 14.69
23980 Woodworker	\$ 12.57
Personal Needs Occupations:	
24570 Child Care Attendant	\$ 8.67
24580 Child Care Center Clerk	\$ 11.61
24600 Chore Aide	\$ 6.69
24630 Homemaker	\$ 10.79
Plant and System Operation Occupations:	
25010 Boiler Tender	\$ 14.69
25040 Sewage Plant Operator	\$ 14.08
25070 Stationary Engineer	\$ 14.69
25190 Ventilation Equipment Tender	\$ 12.00
25210 Water Treatment Plant Operator	\$ 14.08

Protective Service Occupations:

27004 Alarm Monitor	\$ 12.95
27006 Corrections Officer	\$ 17.09
27010 Court Security Officer	\$ 17.57
27040 Detention Officer	\$ 17.09
27070 Firefighter	\$ 16.90
27101 Guard I	\$ 6.47
27102 Guard II	\$ 12.95
27130 Police Officer	\$ 19.80

Stevedoring/Longshoremen Occupational Services:

28010 Blocker and Bracer	\$ 12.93
28020 Hatch Tender	\$ 12.93
28030 Line Handler	\$ 12.93
28040 Stevedore I	\$ 12.39
28050 Stevedore II	\$ 13.42

Technical Occupations:

29010 Air Traffic Control Specialist, Center 2/	\$ 24.05
29011 Air Traffic Control Specialist, Station 2/	\$ 16.58
29012 Air Traffic Control Specialist, Terminal 2/	\$ 18.26
29023 Archeological Technician I	\$ 12.65
29024 Archeological Technician II	\$ 14.14
29025 Archeological Technician III	\$ 17.52
29030 Cartographic Technician	\$ 17.52
29035 Computer Based Training (CBT) Specialist/Instructor	\$ 18.74
29040 Civil Engineering Technician	\$ 17.52
29061 Drafter I	\$ 9.19
29062 Drafter II	\$ 10.33
29063 Drafter III	\$ 15.23
29064 Drafter IV	\$ 18.85
29081 Engineering Technician I	\$ 10.30
29082 Engineering Technician II	\$ 11.50
29083 Engineering Technician III	\$ 14.30
29084 Engineering Technician IV	\$ 16.53
29085 Engineering Technician V	\$ 18.85
29086 Engineering Technician VI	\$ 22.98
29090 Environmental Technician	\$ 15.69
29100 Flight Simulator/Instructor (Pilot)	\$ 22.66
29150 Graphic Artist	\$ 18.74
29160 Instructor	\$ 18.74
29210 Laboratory Technician	\$ 14.12
29240 Mathematical Technician	\$ 16.53
29361 Paralegal/Legal Assistant I	\$ 11.08
29362 Paralegal/Legal Assistant II	\$ 14.68
29363 Paralegal/Legal Assistant III	\$ 17.95
29364 Paralegal/Legal Assistant IV	\$ 21.73
29390 Photooptics Technician	\$ 16.53
29480 Technical Writer	\$ 20.73
29491 Unexploded Ordnance Technician I	\$ 15.28
29492 Unexploded Ordnance Technician II	\$ 18.49
29493 Unexploded Ordnance Technician III	\$ 22.16
29494 Unexploded Safety Escort	\$ 15.28
29495 Unexploded Sweep Personnel	\$ 15.28
29620 Weather Observer, Senior 3/	\$ 15.69
29621 Weather Observer, Combined Upper Air & Surface Programs 3/	\$ 14.12
29622 Weather Observer, Upper Air 3/	\$ 14.12

Transportation/Mobile Equipment Operation Occups:

31030 Bus Driver	\$ 9.68
31260 Parking and Lot Attendant	\$ 7.64
31290 Shuttle Bus Driver	\$ 9.07
31300 Taxi Driver	\$ 9.07
31361 Truckdriver, Light Truck	\$ 9.07
31362 Truckdriver, Medium Truck	\$ 9.68
31363 Truckdriver, Heavy Truck	\$ 12.47
31364 Truckdriver, Tractor-Trailer	\$ 12.47

Miscellaneous Occupations:

99020 Animal Caretaker	\$ 8.67
99030 Cashier	\$ 7.84
99041 Carnival Equipment Operator	\$ 8.53
99042 Carnival Equipment Repairer	\$ 9.75
99043 Carnival Worker	\$ 7.47
99050 Desk Clerk	\$ 9.30
99095 Embalmer	\$ 15.28
99300 Lifeguard	\$ 8.30
99310 Mortician	\$ 15.28
99350 Park Attendant (Aide)	\$ 11.61
99400 Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	\$ 8.30
99500 Recreation Specialist	\$ 12.90
99510 Recycling Worker	\$ 9.27
99610 Sales Clerk	\$ 8.30
99620 School Crossing Guard (Crosswalk Attendant)	\$ 7.47
99630 Sports Official	\$ 8.30
99658 Survey Party Chief (Chief of Party)	\$ 11.43
99659 Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	\$ 10.29
99660 Surveying Aide	\$ 7.73
99690 Swimming Pool Operator	\$ 13.63
99720 Vending Machine Attendant	\$ 9.94
99730 Vending Machine Repairer	\$ 13.63
99740 Vending Machine Repairer Helper	\$ 9.94

** Fringe Benefits Required For All Occupations Included In
This Wage Determination **

HEALTH & WELFARE: \$1.63 an hour or \$65.20 a week or \$282.53 a month.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 10 years; 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 4.173)

HOLIDAYS: Minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

1/

Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See 29 CFR 4.156)

2/

APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3/

WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employee (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

** UNIFORM ALLOWANCE **

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an

employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$4.25 per week (or \$.85 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Source of Occupational Titles and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Second Supplement, dated August 1995, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE
{Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than

30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

[\[HOME\]](#) [\[SEARCH\]](#) [\[PREV LIST\]](#) [\[CURR LIST\]](#) [\[NEXT LIST\]](#) [\[FIRST DOC\]](#) [\[PREV DOC\]](#) [\[CURR DOC\]](#) [\[NEXT DOC\]](#) [\[LAST DOC\]](#) [\[TOP\]](#) [-hit](#) [\[HELP\]](#)

ATTACHMENT 2
SP0600-00-R-0036

OFFEROR
SUBMISSION
PACKAGE

SOLICITATION, OFFER AND AWARD				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING		PAGE OF PAGES 1 12	
2. CONTRACT NO.		3. SOLICITATION NO. SP0600-00-R-0036		4. TYPE OF SOLICITATION [] SEALED BID (IFB) [x] NEGOTIATED (RFP)		5. DATE ISSUED March 10, 2000		6. REQUISITION/PURCHASE NO. SPO600-00-0000/CASCO BAY, ME	
7. ISSUED BY Defense Energy Support Center 8725 John J Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 PP: 6.1 Buyer/Symbol: Tracy/DESC-FPA Phone: 703-767-9351 Fax: 703-767-8506/ttracy@desc.dla.mil				CODE SCO600		8. ADDRESS OFFER TO (If other than item 7) ATTN: BID CUSTODIAN, DESC-PCC, RM. 3729 Defense Energy Support Center 8725 John J Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 Fax: 703-767-8506 Verification: 703-767-8758			
NOTE: In sealed bid solicitation "offer" and "offeror" mean "bid" and "bidder".									
SOLICITATION									
9. Sealed offers in original and <u>1 (one)</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified, in the depository located in DESC-PCC; Room 3729 until 3:00 PM local time April 06, 2000. (hour) (date) CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L. Provision No. 52.215-10. All offers are subject to all terms and conditions contained in this solicitation. See Clause L2.05-8									
10. FOR INFORMATION CALL:			A. NAME Tom Tracy			B. TELEPHONE NO. (Include Area Code) (NO COLLECT CALLS) 703-767-9351			
11. TABLE OF CONTENTS									
(x)	SEC.	DESCRIPTION			PAGE	(x)	SEC.	DESCRIPTION	
PART I - THE SCHEDULE					PART II - CONTRACT CLAUSES				
X	A	SOLICITATION/CONTRACT FORM SEE COVER SHEET			1		I	CONTRACT CLAUSES	
X	B	SUPPLIES OR SERVICE AND PRICES/COSTS			2-4	PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS/WORK STATEMENT				J	LIST OF ATTACHMENTS		
	D	PACKAGING AND MARKETING				PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE				X	K	REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE						5-12	
	G	CONTRACT ADMINISTRATION				L	INSTRS., COND., AND NOTICES TO OFFERORS		
X	H	SPECIAL CONTRACT REQUIREMENTS			5	M	EVALUATION FACTORS FOR AWARD		
OFFER (Must be fully completed by offeror)									
NOTE: ITEM 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.									
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ * _____ calendar days (60 calendar days unless a different period is inserted by the offer) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. * See Clause L1.02									
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause I4)			10 CALENDAR DAYS %		20 CALENDAR DAYS %		30 CALENDAR DAYS %		CALENDAR DAYS %
14. ACKNOWLEDGMENT OF AMENDMENTS The offeror acknowledges receipt of amendments to the solicitation for offerors and related documents numbered and dated:			AMENDMENT NO.		DATE		AMENDMENT NO.		DATE
15A. NAME OF OFFEROR (Type or print)		ADDRESS OF OFFEROR (Type or print)		CODE		FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	
15B. TELEPHONE NO. (Include area code)			15C. CHECK IF REMITTANCE ADDRESS [] Is different from above - enter such address			17. SIGNATURE		18. OFFER DATE	
AWARD (To be completed by Government)									
19. ACCEPTED AS TO ITEM NUMBERED			20. AMOUNT			21. ACCOUNTING AND APPROPRIATION NUMBERED			
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: [] 10 U.S.C. 2304(c)() [] 41 U.S.C. 253(c)()						23. SUBMIT INVOICES TO ADDRESS SHOWN IN IN BLOCK 25 (4 copies unless otherwise specified)		ITEM	
24. ADMINISTRATION BY (If other than Item 7)						CODE		25. PAYMENT WILL BE MADE BY	
								CODE	
26. NAME OF CONTRACTING OFFICER (Type of print)				27. UNITED STATES OF AMERICA BY: _____ (Signature of person authorized to sign)				28. AWARD DATE	

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SECTION B – SUPPLIES/SERVICES AND PRICES/COST

B35 SERVICES TO BE FURNISHED AND PRICES (ENVIRONMENTAL) (DESC FEB 1992)

The services to be furnished during the period specified herein and the unit prices are as follows:

<u>CLIN</u>	<u>Services</u>	<u>Amount</u>
0001A	Work Plan Unit	\$ _____
0001B	Work Plan Excess Hours	\$ _____
0002A	Boring up to 5 feet	\$ _____
0002B	Feet of Boring 6 to 20 feet	\$ _____
0002C	Soil Borings Mobilization	\$ _____
0003A	Price Per Unit of DPT	\$ _____
0003B	Mobilization for DPT	\$ _____
0004A	2" Monitoring Well up to 10 feet	\$ _____
0004B	2" Monitoring Well 11 to 20 feet	\$ _____
0004C	4" Monitoring Well up to 10 feet	\$ _____
0004D	4" Monitoring Well 11 to 20 feet	\$ _____
004AE	Monitoring Wells Mobilization	\$ _____
0005A	Ocean Sediment Samples	\$ _____
0005B	Beach Sediment Samples	\$ _____
0005C	Shellfish Samples	\$ _____
0005D	Shellfish Sampling Mobilization	\$ _____
0006A	Total Fuel Oil (MEDEP 4.1.25)	\$ _____
0006B	8015	\$ _____
0006C	8021B	\$ _____
0006D	8260	\$ _____
0006E	8260 (Modified)	\$ _____
0006F	8270 (SW-846PAH)	\$ _____
0006G	TCLP Metals	\$ _____
0006H	9045	\$ _____
0006I	1010/1020	\$ _____
0006J	Bioassay (Toxicity)	\$ _____
0006K	Major Anions and Cations	\$ _____
0006L	Nitrate (Bioindicator)	\$ _____
0006M	Sulfate (Bioindicator)	\$ _____
0006N	Dissolved Iron (Bioindicator)	\$ _____
0006O	Dissolved Manganese (Bioindicator)	\$ _____
0006P	Filters for Dissolved Metals	\$ _____
0006Q	Methane (Bioindicator)	\$ _____
0006R	pH, Temp and Conductivity Meter	\$ _____
0006S	Chloride (Bioindicator Tracer)	\$ _____
0006T	In-Line Flow Meter Cells	\$ _____
0006U	Peristaltic Pumps	\$ _____
0006V	Phenolic Compounds (Chlorinated)	\$ _____
0006W	Oil & Grease	\$ _____
0006X	Soil Properties Testing API RP40	\$ _____
0006Y	Grain Size ASTM D4464	\$ _____
0006Z	Hydraulic Conductivity ASTM 2434/5084	\$ _____

0007	Well Location Surveying Units	\$	
0008	Pump Tests	\$	
0009A	Risk Analysis	\$	
0009B	Excess Hours for Risk Analysis	\$	
0010A	Reports	\$	
0010B	Excess Hours for Report Preparation	\$	
0011A	Project Manager (Price Per Hour)	\$	
0011B	Engineer I (Price Per Hour)	\$	
0011C	Engineer II (Price Per Hour)	\$	
0011D	Engineer III (Price Per Hour)	\$	
0011E	Chemist (Price Per Hour)	\$	
0011F	Environmental Scientist I (Price Per Hour)	\$	
0011G	Environmental Scientist II (Price Per Hour)	\$	
0011H	Environmental Scientist III (Price Per Hour)	\$	
0011I	Geologist I (Price Per Hour)	\$	
0011J	Geologist II (Price Per Hour)	\$	
0011K	Geologist III (Price Per Hour)	\$	
0011L	Hydrogeologist I (Price Per Hour)	\$	
0011M	Hydrogeologist II (Price Per Hour)	\$	
0011N	Hydrogeologist III (Price Per Hour)	\$	
0011O	Toxicologist I (Price Per Hour)	\$	
0011P	Toxicologist II (Price Per Hour)	\$	
0011Q	Toxicologist III (Price Per Hour)	\$	
0011R	Drafter (Price Per Hour)	\$	
0011S	Cost Accountant (Price Per Hour)	\$	
0011T	Secretary (Price Per Hour)	\$	
0011U	Site Labor Foreman (Price Per Hour)	\$	
0011V	Heavy Equipment Operator (Price Per Hour)	\$	
0011X	Laborer (Price Per Hour)	\$	
0011Y	Engineering Technician (Price Per Hour)	\$	
0011Z	Equipment Operator (Price Per Hour)	\$	
0011AA	Utility Truck (Price Per Day)	\$	
0011AB	02/Explosimeter (Price Per Day)	\$	
0011AC	Sampling Pump (Price Per Day)	\$	
0011AD	Flame Ionization OVA (Price Per Day)	\$	
0011AE	Air Velocity Meter (Price Per Day)	\$	
0011AF	Shipping of Soil & Water Samples for Analytical Testing (Price Per Day)	\$	
0011AG	251b Shipping Container	\$	
0011AH	Disposable Bailers	\$	
0011AI	Tedlar Bags (Price Per Dozen)	\$	
0011AJ	Pick-up Truck ½ Ton (Price Per Day)	\$	
0011AK	1 CY Backhoe Loader (Price Per Day)	\$	
0011AL	1 ½ CY Hydraulic Excavation (Price Per Day)	\$	
0011AM	Drill Rig (Price Per Day)	\$	
0011AN	Dewatering Pump (150 GPM) (Price Per Day)	\$	
0011AO	Air Compressor (7cfm) (Price Per Day)	\$	
0011AP	Generator (4000 watt) (Price Per Day)	\$	
0011AQ	CAD Equipment Use Charge (Price Per Day)	\$	
0011AR	Photoionization Detector (Price Per Day)	\$	
0011AS	Oil/Water Interface Probe (Price Per Day)	\$	
0012	Mark-up for Overhead and Profit (Proposed percentage in Clause B35 will be multiplied by the estimate of cost reimbursable items identified in Clause M28.04.100)	%	

0013 Lump Sum Payment for Background Review

\$ _____
(DESC 52.207-9F95)

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H9 KEY PERSONNEL (DESC AUG 1991)

(a) The Contractor shall assign to this contract the following key personnel:

(Insert employee's name and title/position.)

(b) During the first 120 calendar days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by (c) below. After the initial 120 calendar day period, the Contractor shall submit the information required by (c) below to the Contracting Officer at least 30 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 30 calendar days after receipt of all required information of the decision on substitutions. (DESC 52.216-9F80)

SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS

K1.01-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that--

(a) It--

- ☐ has
☐ has not--

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation;

(b) It--

- ☐ has
☐ has not--

filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (FAR 52.222-22)

K1.01-6 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

THE FAR REPRESENTATION IN THE FOLLOWING PARAGRAPH SHALL BE COMPLETED BY EACH OFFEROR WHOSE OFFER IS \$50,000 OR MORE AND WHO HAS 50 OR MORE EMPLOYEES.

This representation--

☐ DOES APPLY.

☐ DOES NOT APPLY.

The offeror represents that--

(a) It--

☐ has developed and has on file

☐ has not developed and does not have on file--

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (FAR 52.222-25)

K1.01-11 SMALL BUSINESS PROGRAM REPRESENTATIONS (ALTS I/II) (OCT 1998/OCT 1998/JAN 1999)

(a) (1) The standard industrial classification (SIC) code for this acquisition is 8744.

(2) The small business size standard is 500 employees.

(3) The small business size standard for a concern that submits an offer in its own name, other than on a construction or service contract, but that proposes to furnish a product that it did not itself manufacture, is 500 employees.

(b) **REPRESENTATIONS.**

(1) The offeror represents as part of its offer that it--

☐ is,

☐ is not

a small business concern.

(2) **(Complete only if offeror represented itself as a small business concern in subparagraph (b)(1) of this provision.)** The offeror represents, for general statistical purposes, that it--

☐ is,

☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**
The offeror represents as part of its offer that it--

☐ is,
☐ is not

a women-owned small business concern.

(4) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(2) or (c)(7) of this provision.)

The offeror shall check the category in which its ownership falls:

- ☐ Black American
- ☐ Hispanic American
- ☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- ☐ Asian Pacific American (persons with origin from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- ☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- ☐ Individual/concern, other than one of the preceding.

(5) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents, as part of its offer, that--

(i) It--

☐ is

☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It--

☐ is

☐ is not

a joint venture that complied with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(4)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **(The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:)**

_____	_____
_____	_____
_____	_____
_____	_____

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) **DEFINITIONS.**

(1) **Small business concern**, as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

(2) **Woman-owned small business concern**, as used in this provision, means a small business concern--

(i) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(d) **NOTICE.**

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small or small disadvantaged business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of a fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(FAR 52.219-1/Alts I/II)

K7 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (APR 1998)

NOTE: This notice does not apply to small businesses or foreign governments.

This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT - COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$500,000 resulting from this solicitation, will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts that are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) **CERTIFICATE OF CONCURRENT SUBMISSION OF DISCLOSURE STATEMENT.**

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant contract auditor.

(Disclosure must be on Form Number CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____

Name and address of cognizant ACO or Federal official where filed: _____

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

☐ (2) **CERTIFICATE OF PREVIOUSLY SUBMITTED DISCLOSURE STATEMENT.**

The offeror hereby certifies that Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and address of cognizant ACO or Federal official where filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

☐ (3) **CERTIFICATE OF MONETARY EXEMPTION.**

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$25 million (of which at least one award exceeded \$1 million) in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

☐ (4) **CERTIFICATE OF INTERIM EXEMPTION.**

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$25 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies

only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS - ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause in lieu of the COST ACCOUNTING STANDARDS clause.

☐ The offeror hereby claims an exemption from the COST ACCOUNTING STANDARDS clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$25 million in awards of CAS-covered prime contracts and subcontracts, or the offeror did not receive a single CAS-covered award exceeding \$1 million. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$25 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$25 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the COST ACCOUNTING STANDARDS clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ YES

☐ NO

(FAR 52.230-1)

K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. (FAR 52.203-2)

K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

(DESC 52.215-9F28)

K41 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) **DEFINITION. Women-owned business concern**, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) **REPRESENTATION.** (Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, SMALL BUSINESS PROGRAM REPRESENTATIONS, of this solicitation.) The offeror represents that it ☐ is, ☐ is not a women-owned business concern. (FAR 52.204-5)

K88 TAXPAYER IDENTIFICATION (OCT 1998)

(a) **DEFINITIONS.**

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) **TAXPAYER IDENTIFICATION NUMBER (TIN).**

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because--

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) **TYPE OF ORGANIZATION.**

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(f) **COMMON PARENT.**

- ☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
☐ Name and TIN of common parent:

Name: _____

TIN: _____

(FAR 52.204-3)

K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)

(a) (1) The offeror certifies, to the best of its knowledge and belief, that--

(i) The offeror and/or any of its principals--

(A) Are ☐, are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ☐, are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The offeror has ☐, has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the offeror's responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)